

Views of
Local Governments on the
Recommendations of the
Indian Statutory Commission
1930



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Views of Local Governments on the Recommendations of the Indian Statutory Commission, 1930.

Letter to all local Governments of Governors' Provinces (except Burma),
No. F. 67/30-R., dated the 24th June 1930.

I am directed to address you on the subject of the recommendations contained in the Report of the Indian Statutory Commission.

2. As the Government of Madras/etc., are aware, the Indian Constitutional Conference in London is to be held on or about the 20th October 1930. It is essential that the Government of India after considering the views of local Governments should submit their own advice to His Majesty's Government on a date not later than the 13th September 1930. In order that they may be able to do so the Government of India desire to be in possession of the recommendations of local Governments not later than the 15th August 1930. The Government of India will, therefore, be glad if the Government of Madras/etc., will furnish the Government of India with their views at the earliest date before the 15th August convenient to them.

3. The recommendations of the Indian Statutory Commission are contained in Volume II of their Report. I am to invite the Government of Madras/etc., to express their views on any of the recommendations which appear to have a direct interest for them. I am also to indicate particular matters which must obviously engage their attention. These particular matters are the recommendations contained in

- Part I, Chapters 2 and 5;
- Part II;
- Part III, Chapter 2;
- Part IV, Chapters 1 and 4;
- Part VIII;
- Part IX; and
- Part X.

(As the recommendations contained in Part X of the Report affect the position of the various High Courts, the Government of India will be glad if the Government of Madras/etc., will obtain the views of the Madras/etc., High Court on these recommendations and communicate them to the Government of India.)

4. As it is the intention of the Government of India to submit to His Majesty's Government the views of local Governments along with their own, it will be convenient if views are expressed in broad outline without over-elaboration of detail. It would greatly facilitate the examination and consideration of the opinions submitted by the local Government if, so far as is possible, they are arranged in the order in which the subjects are dealt with in the report.

5. Finally I am to say that the Government of India would be glad if the Government of Madras/etc., would include in their report to this reference an estimate of the reception which the recommendations of the Commission have received in the province.

Letter to the Chief Secretary to the Government of Burma, No. F. 67/30-R., dated the 24th June 1930.

I am directed to forward, for the information of the Government of Burma, a copy of a letter No. F. 67/30-R., dated the 24th June 1930, addressed to other local Governments on the recommendations of the Indian Statutory Commission. It will be seen that the Government of Burma are concerned particularly with Part VI of Volume II of the Report and the appendix to Sir Walter Layton's Report (Part VIII). I am to request that the views of the local Government on the recommendations contained in these parts of the Report may be submitted to the Government of India at the earliest date not later than 15th August 1930, convenient to the Government of Burma.

2. I am also to invite an expression of any views which the Government of Burma may desire to make on the other recommendations of the Commission.

Letter to the Registrar, High Court, Calcutta, Appellate Side, No. F. 67/30-R., dated the 24th June 1930.

I am directed to refer to Part X, Volume II of the Report of the Indian Statutory Commission on the subject mentioned above, and to say that the Government of India would be glad to receive the views of the Hon'ble the Chief Justice and Judges on the recommendations contained therein. I am to request that a reply to this letter may be

sent so as to reach the Government of India not later than the 20th July 1930.

2. I am to request that a copy of the High Court's reply be communicated to the Government of Bengal.

Letter to the Chief Commissioner, Coorg, Baluchistan, Delhi and Ajmer-Merwara, No. F. 67/30-R., dated the 24th June 1930.

I am directed to address you on the subject of the proposals in so far as they affect your province contained in Part III of Volume II of the Report of the Indian Statutory Commission. I am to request that your views may be communicated to the Government of India not later than the 15th August 1930.

Letter to the Chief Commissioner, North-West Frontier Province, No. F. 108/30-R., dated the 2nd August 1930.

I am directed to invite an expression of your opinion on the recommendations made in Chapter I, Part III, Volume II of the Report of the Indian Statutory Commission regarding the future form of government in the North-West Frontier Province. The Government of India are aware that you have had the question of constitutional reform in the N.-W. F. P. already under your consideration, and would appreciate an early reply if possible not later than the 20th August.

No. 978, dated Stonehouse Hill, the 11th August 1930.

From—G. T. BOAG, Esq., O.I.E., I.O.S., Additional Secretary to the Government of Madras, Public Department,

To—The Secretary to the Government of India, Reforms Office.

I am directed to reply to letter No. F. 67/30-R., dated the 24th June 1930, from the Joint Secretary to the Government of India, Reforms Office, to the Chief Secretary to the Government of Madras, in which the Government of India ask for the views of this Government on the recommendations made by the Indian Statutory Commission.

2. At the outset I am to say that these recommendations have been considered by His Excellency the Governor with his Executive Council and Ministers sitting together and that the views expressed in this letter are the views of the Government as a whole.

PART I OF THE REPORT.—GENERAL PRINCIPLES.

3. The Madras Government in the Memorandum which they submitted to the Commission expressed their conviction that the ultimate form of government in India must be a federation which the Indian States can enter freely, and that to achieve this object the powers of the Central Government must be carefully defined and limited and all residual powers left to the component Provinces and States. The Commission accepts the view that the ultimate constitution of India must be federal; and in so far as their proposals involve a reorganization of British India on a federal basis, they are in accord with the views already expressed by the Government of Madras.

4. The Commission lays down two other general principles, *viz.*, (1) that the new constitution should, as far as possible, contain within itself provision for its own development, and (2) that throughout the period during which India is progressing on the road to complete self-government there must be full provision made for the maintenance and efficiency of the fundamentals of Government, especially for defence, for internal security, and for the protection of minorities. Broadly speaking the Madras Government accept both these principles and agree with them entirely in their application to the Provincial Government; but they cannot offer any opinion of real value upon the Commission's proposals regarding the Central Government, for they have not sufficient experience of the working of that Government.

PART II.—THE GOVERNORS' PROVINCES.

CHAPTER 1.—THE PROVINCIAL EXECUTIVE.

5. The first recommendation which the Commission makes in this part of its report relates to the need for a readjustment and redistribution of provincial boundaries and areas. The Madras Government have already expressed the opinion that the question of political reform should not be hampered with proposals for the rearrangement and regrouping of existing provinces. They still consider that the appointment of a Boundaries Commission with power to investigate every demand for the division of

a province on linguistic lines must inevitably delay the introduction of political reform; for it is only after the number and size of the provinces have been determined, that proposals can be evolved for their political constitution; the two processes cannot be undertaken simultaneously. The Madras Government are therefore against the appointment of a commission with authority to examine all cases in which demands have been made for the breaking up of existing provinces; but they would have no objection to the appointment of a commission whose functions were strictly limited to making minor adjustments of territory. This commission, if it is to be appointed, should get to work with as little delay as possible, so that it may complete its enquiry before the time comes to work out the details of the new constitution. I am to add that this Government consider that the present provisions of the Government of India Act with regard to the constitution of new provinces [section 52-A (1)] and the alteration of boundaries of provinces (section 60) should be retained.

6. As regards the Provincial Executive, the Government of Madras accept in the main the proposals made by the Commission, which differ very little from those put forward by this Government. They agree that the division into reserved and transferred subjects should disappear, and that all subjects alike should be in the common category of provincial subjects. They agree that the provincial cabinet should be unitary and jointly responsible to the legislature; and they also agree that Ministers' salaries should be fixed by an Act of the legislature, and should not be liable to reduction or denial by a vote in supply. While, however, the Commission would not insist upon there being a Chief Minister, the Madras Government consider that it is necessary that there should always be a Chief Minister; and they would provide that no person other than an elected member of the legislature should be appointed to the Ministry except on the recommendation or with the consent of the Chief Minister; other Ministers should be appointed on the Chief Minister's recommendation. The Madras Government consider that the Governor should not ordinarily preside over a meeting of the Cabinet but that he should have the right to do so in exceptional circumstances. He should be supplied with notices of meetings and the agenda of business, and a transcript of the proceedings should be sent to him after each meeting. The Madras Government agree with

the Commission that the Governor should have the power to suspend any decision of the Cabinet pending its reconsideration at a subsequent meeting.

7. The appointment of an official as Secretary to the Cabinet was recommended by the Government of Madras in the Memorandum which they submitted to the Commission; but the Commission in commending the suggestion thinks that it ought not to be expressed in mandatory or statutory form. This Government are still of the opinion that the appointment is necessary. The Secretary should be appointed by the Governor; he should be under the control of the Chief Minister; and, in order to prevent any suspicion or mistrust either between the Ministers and the Governor or between the Ministers and the Secretary, he should not have direct access to the Governor without the knowledge of the Chief Minister. They would further suggest that as it is essential that the Governor should be kept informed not only of the legislation which is proposed but also of the work of administration, the Secretary to the Cabinet should be kept informed by the Secretaries of the various departments of all important administrative proposals.

8. The Government of Madras accept the recommendations of the Commission as to the powers which should be given to the Governor on the administrative side to overrule his Cabinet. They would suggest that the wording of clause (1) in paragraph 50 of the Report should be brought into agreement with that of the Government of India Act by the addition of the words "or of any part thereof" after the word "province". The Government also accept the recommendations of the Commission with regard to the powers to be given to the Governor to deal with a state of emergency.

9. The Commission's recommendation regarding the transfer of "Law and Order" is in accordance with the proposals made by this Government and is acceptable to them.

CHAPTER 2.—THE PROVINCIAL LEGISLATURE.

10. This Government accept the Commission's recommendation that the maximum life of the provincial councils should be extended to five years. They agree generally with the Commission's proposals regarding the size of provincial

councils; they would, however, observe that the exact size of the council must depend upon the extent to which the franchise is widened, and that it should be an instruction to the Franchise Committee to make proposals for the strength of the provincial councils.

11. In the matter of communal representation, the Madras Government agree with the Commission that for *Muhammadans* separate electorates must continue until the Muhammadans themselves agree to surrender the privilege. The Madras Government also agree that there is no need to continue to reserve seats for *Non-Brahmans* in Madras.

12. The Commission's proposal for the representation of the *Depressed classes* by the reservation of seats in general constituencies is, in the opinion of the Madras Government, impracticable; it must involve large constituencies; the election of the representatives of the depressed classes will be made mainly by persons who do not belong to them; and the representatives will therefore depend for their seats on the votes of other than members of the depressed classes. I am to say that the Government adhere to the view expressed in their Memorandum to the Commission, that separate electorates of the depressed classes should be created wherever possible, and that for the rest the representation of these classes should continue to be by nomination. This Government also wish to emphasize their objection to any reduction of the representation of this class of the population.

13. The Commission proposes to continue the representation of *Europeans* and *Anglo-Indians* by means of separate electorates. This proposal is in agreement with the views already expressed by the Madras Government and is accepted by them.

14. For *Indian Christians* the Commission proposes representation in Madras by the reservation of seats. At present this community is represented by means of separate electorates; and the Madras Government adhere to the view, to which they gave expression in their Memorandum to the Commission, that a community which has once enjoyed the privilege of separate electorates should not be deprived of that privilege against its will. The Commission has recognized the force of this claim in the case of Muhammadans, and it is inconsistent to ignore it in the case of Indian Christians.

15. This Government support the Commission's recommendation for the abolition of the *official bloc*, and to permit experts who are not members of the Council to appear in Committees of the Council but not on the floor of the House.

16. With regard to *University representation*, I am directed to observe that the Commission makes no explicit reference to the point urged by this Government, *viz.*, that in future the electorate should be the members of the Senate and not the general body of graduates. The Government of Madras desire to secure the representation of a true academic or educational standpoint which can only be attained through the change which they have suggested, and they would press for the acceptance of their proposal.

17. This Government accept the recommendation of the majority of the Commission that the representation of *Commerce* and *Planting* should be maintained as at present. They also accept the proposals of the majority of the Commission with regard to the special representation of *Labour*,

18. The Commission recommends that the special electorates for *Landholders* should not be continued, and that if a sufficient number of candidates of this class are not returned by general constituencies, the Governor should have discretion to add by nomination such number as will bring their representation in the Council up to the proportion now guaranteed to them. The Government of Madras consider that the Commission was acting on a wrong assumption when it considered that landholders would necessarily exert such influence that their return would be assured and that therefore there was no necessity for a separate electorate; the signs of the times tend to the other direction, and it is extremely doubtful if in the future landholders will be able to exercise the same influence as at present. There is a danger that landholders, if they know that they are sure of obtaining a certain number of seats by nomination, will not take the trouble to stand for election. And rather than run the risk of a Council in which landholders are represented by nominated members alone, the Government would prefer to continue their special electorates, as they originally suggested.

19. The Government accept the Commission's proposals for the representation of *Women*.

20. The Commission recommends that the Governor should have the power to *nominate* members to represent

certain special classes, *viz.*, the depressed classes, Anglo-Indians, Indian Christians and landholders, in case adequate representation cannot be secured by means of election. The Government of Madras, as has been stated above, would prefer that Anglo-Indians, Indian Christians and landholders secured their representation by means of separate electorates; they recognize the need for nomination in the case of the depressed classes and also for the backward tracts. Over and above these special cases the Commission would give the Governor power to nominate a number, between 5 and 10 per cent. of the total fixed seats, with the object more particularly of ensuring better representation of women and of labour. The Madras Government, while accepting this recommendation, would limit the maximum number of these nominations to 5 per cent. of the total number of seats.

21. The Government of Madras accept the proposals in paragraphs 94 and 95 of the Report to empower provincial legislatures to initiate amendments of the constitution. And they would add to the subjects enumerated in paragraph 95, as falling within the scope of a "constitutional resolution," a fourth subject, *viz.*, proposals to set up a second chamber. (Please see paragraph 28 below.)

22. The Government also agree to the Commission's recommendations to continue the present method of securing a proper distribution of legislative topics between the Central and Provincial Legislatures, and to maintain the Governor's present powers in relation to assent to Bills and to their reservation and return. They accept also the proposals in paragraphs 97 and 98 of the Report that in the matters over which special executive power is reserved to the Governor, he should also have the power by certification to secure the passage of rejected Bills and to restore rejected grants; and that in cases of emergency, when the legislature cannot or will not function, the Governor should have the exceptional powers of legislation by ordinance and of authorization of expenditure over the whole provincial field.

23. The Commission considers that in the normal constitutional system proviso (b) in section 72-D (2) will have no place. It must, however, be remembered that it is possible that an emergency may arise, when the Legislative Council is not in session, demanding immediate expenditure for which there is no provision in the budget. Under this

proviso the Governor now has the power to authorize such expenditure. The Government of Madras consider that the power should be retained, but that it should vest in the Cabinet instead of in the Governor.

CHAPTER 3.—THE FRANCHISE.

24. In the Memorandum which they submitted to the Commission the Government of Madras expressed the opinion that the time has not come for any extension of the franchise. The Commission, however, has found that "the present franchise is too limited in scope to provide the material from which to build any adequate scheme of representative Government," and recommends that a new franchise committee be set up with instructions to frame such a scheme as will enfranchise about 10 per cent. of the total population, *i.e.*, more than treble the present number of voters. The chief arguments which lead the Commission to this conclusion are (1) that the present limited franchise operates unfairly as between different classes and creeds, (2) that there is a large number of literate persons who have not got the vote, and (3) that those below the present line of qualification are in many cases just as fit for the vote as those who have it. I am to say that the Government of Madras admit the force of these arguments, especially that based on the number of literates who are not enfranchised; they agree that there should be a limited extension of the franchise, and that the details should be worked out by a franchise committee, who should be instructed to add to the present qualifications one based on education of a fairly low standard.

25. A woman under the present rules may be registered as a voter, if she has the property qualifications which entitle a man to registration. The Madras Government agree that in addition to this property qualification there should be for women over twenty-one as well as for men a qualification based on education; they consider that the wife of a man who has a property qualification to vote should be enfranchised only if she is qualified independently of her husband; to enfranchise the illiterate wife of a man qualified to vote will simply be giving him two votes instead of one. For widows the Government agree with the Commission that those whose husbands at the time of death had a property qualification should be enfranchised; those who

have the educational qualification will in any case have a vote.

26. In paragraph 109 of the Report the Commission refers to the recommendation in paragraph 95 that provincial councils should after ten years be empowered to initiate measures for further extensions of the franchise, and adds a further recommendation that after fifteen years another franchise committee should review the progress made and, unless 20 per cent. of the population is by that time enfranchised, devise means of accelerating the rate of progress. The Government of Madras have accepted the recommendation in paragraph 95 of the Report; but they do not agree to the proposal that a second franchise committee should necessarily be appointed after fifteen years; they regard this proposal as inconsistent with the principle laid down by the Commission that the new constitution should contain within itself provision for its own development; they consider that the arrangements proposed in paragraph 95 of the Report afford adequate facilities for the constitutional plant to grow of itself; and they see no need to provide that in fifteen years a body from outside should be appointed to pull up the plant and see how it is getting on.

27. The Government of Madras accept the recommendation that limits should be prescribed by rule for election expenses, though they are not altogether confident that such rules will be successful in preventing corruption.

CHAPTER 4.—SECOND CHAMBERS.

28. On this question the Commission has not been able to make an unanimous recommendation one way or the other. In the Memorandum which they submitted to the Commission, the Madras Government did not advocate a second chamber for the reason that "there are no elements or interests which do not or would not contribute to a single house and from which a second or revising chamber could be formed." While they agree that it is, in theory, possible for all the interests of the province to obtain representation in the Legislative Council, the Government recognize that there is a large stratum of "solid" people, not merely big zamindars or other landholders, but also bankers, professional or business men, merchants and retired officials, to whom the rough and tumble of popular political contest is distasteful, but to whom the second chamber would afford a

suitable forum. From among these people it would undoubtedly be possible to find the material necessary for a small second chamber such as that suggested at the end of paragraph 115 of the Commission's Report. The Government also consider that a second chamber might perform many useful functions, either in exercising a moderating influence that may render the Governor's personal intervention unnecessary or in supporting the Governor against the vagaries of the lower house. In spite of these considerations, however, the Government have come to the conclusion that it is better at present not to dissipate such political talent as now exists in the province more widely than between the local Legislative Council, the Central Assembly and the Council of State. They recognize that circumstances may create a demand for a second chamber, to act as a check on extravagant measures adopted by the Legislative Council and to form a buffer between the Legislative Council and the Governor; but they would leave it to the Legislative Council itself to initiate such proposals; and they would therefore include proposals for the setting up of a second chamber among the objects of the "constitutional resolution" which the Commission proposes, in paragraph 95 of its Report, to empower a provincial legislature to carry.

29. The Madras Government are not convinced that the expert revising body suggested by the Commission in paragraph 117 of the Report would serve any useful purpose. The Advocate-General is usually a member of the Select Committees which consider legislative proposals in detail and his advice is taken at every stage of the proceedings; the final drafts of legislative measures are examined by the departments of the Secretariat who consider their administrative effect, and, if they think it necessary, consult the Advocate-General upon questions of law or drafting. It is therefore superfluous to set up a special body to perform these functions. The Government, however, recognize that the need for such a revising committee may declare itself in future and they would not object to give provincial Governments and legislatures the power to create such a body.

PART III.

CHAPTER 2.—THE BACKWARD TRACTS.

30. The Madras Government are concerned with two backward tracts.—(1) the Laccadive Islands and Minicoy,

which have been wholly excluded from the present constitution, and (2) the Agency tracts, which have been partially excluded. The Government consider that the proposals made by the Commission for the administration of these tracts are clumsy and complicated. The Governor is to administer them as agent for the Governor-General in Council, but he is apparently to rely upon the Madras Government for his officers. The higher officers, for example, Collectors, Inspector-General of Police, Surgeon-General, etc., will come under the Governor as soon as they enter these tracts or deal with matters affecting them; for subordinate officials the Governor will have to apply to the appropriate Minister for personnel. If there is trouble in an Agency and the Governor wants extra police, he will have to apply to the Home Minister who may reply that he regrets that in the disturbed state of the country he cannot spare any police. The Governor will have to take over the Agency work now done by the Revenue Member; and he will either have to have a Secretary for the backward tracts or his Private Secretary will have to take over the duties of such a Secretary.

31. The exclusion of these tracts implies a want of trust in the Cabinet of Ministers and the local legislature, and a feeling that they will not administer them properly and will not provide funds necessary for their development. The Government of Madras do not consider that there has been anything in the attitude of Ministers or the Legislative Council in the past to justify these apprehensions.

32. The Madras Government therefore consider that these areas should not be excluded from the Presidency or from the jurisdiction of the Ministers. They would recommend as special safeguards.

- (1) that no law or rule having the force of law shall be brought into force or altered or repealed in a backward tract or any part of it without the concurrence of the Governor; and
- (2) that if the Governor-General in Council is satisfied that a backward tract or any part of it is maladministered he may exclude it from the jurisdiction of the Madras Government and make other arrangements for its administration.

PART IV.

CHAPTER 1.—THE CENTRAL LEGISLATURE.

33. *The Federal Assembly.*—The Government of Madras recommended to the Commission that, while the separate constituencies should be retained for Muhammadans, Europeans, landholders and Indian Commerce, such general seats as may be allotted to the province should be filled by election made by the members of the provincial legislative council of persons, whether members of the council or not, who are qualified under the provincial electoral rules to be members of the provincial legislative council. The Commission's recommendation is that there should be no special constituencies, but that all the seats allotted to the province should be filled by election made by the members of the provincial legislative council by the method of proportional representation.

34. I am to say that with regard to the method of election to the Federal Assembly the Madras Government now are divided in opinion. One half favours the recommendations of the Commission on the general grounds urged in the Report, although all are agreed that among the general public the proposals are unpopular. The other half of the Government would prefer to keep the present method of election which they consider would more closely represent the views of the electorate. In these circumstances, the Government of Madras are unable to give any definite opinion.

35. *The Council of State* —The Madras Government in their Memorandum recommended no change as regards the Council of State. The Commission, however, would introduce indirect election either by a second chamber, if there is one, or by the members of the provincial council by the method of proportional representation. The Commission is led to this recommendation by the consideration that considerable difficulty has been found in forming an electorate, and that the basis of representation is altogether too narrow. Yet the Commission admits that the Council of State as now constituted contains members of experience and distinction who have made valuable contributions to the discussion of public affairs, and that it has been a steadying influence during a difficult transitional period. The Government of

Madras infer from these conclusions that the present electorate has been successful in sending to the Council of State candidates of experience and status, such as the Commission desires to secure; and on this ground they adhere to their recommendation not to make any change in the method of election or in the qualifications of electors.

36. *Legislative powers.*—The Commission recommends no change in the legislative powers of the Central Legislature. The sphere of the provincial legislatures will continue to be protected by the provision that the previous sanction of the Governor-General is required for the introduction of any measure (1) regulating any provincial subject, or any part of a provincial subject, which has not been declared by rule to be subject to legislation by the Indian legislature, and (2) repealing or amending any Act of a local legislature. The Commission looks forward to a growing tendency on the part of provincial legislatures to undertake—with the Governor-General's previous sanction—legislation on subjects allotted by rule to the centre; and it suggests that the Central Legislature can assist in extending desirable reforms by passing enabling statutes, which would be subject to adoption by resolution of a provincial legislature.

37. I am to say that the Government of Madras accept these proposals generally; they consider, however, that it should be laid down that the Central Legislature should not have power to legislate for matters which concern one province alone which has its own legislature; they would accept the Commission's recommendation that for certain purposes the Central Legislature should be able to legislate for all or a majority of the provinces, such legislation to be subject to adoption by resolution of a provincial legislature.

38. The financial powers of the Central Legislature will be considered when dealing with Part VIII of the Report—Sir W. Layton's proposals.

CHAPTER 4.—RELATIONS BETWEEN CENTRE AND PROVINCES.

39. The Government of Madras accept the Commission's recommendation that Governors, in the exercise of their special and emergency powers, should be subject to the control of the Governor-General.

40. The Commission's recommendations regarding control by the Central Government over provincial Governments are contained in paragraphs 182 to 186 of the Report. Except in one particular, the Madras Government accept those recommendations. They demur to the finding contained in the last sentence of paragraph 184, " We think it essential that the Central Government, in dealing with questions which vitally affect more than one province, should in the future have a more authoritative position than it now enjoys, constitutionally, in the transferred sphere," and to the means by which the Commission proposes to give effect to this finding. Clause (2) of the present rules under section 19-A of the Government of India Act reads " to decide questions arising between two provinces in cases where the provinces concerned fail to arrive at an agreement "; the corresponding " category " proposed by the Commission reads, " matters which may, in the opinion of the Governor-General, essentially affect the interests of any other part of India ". The Commission admits that under the present rules the sort of co-operation and co-ordination between provinces, which its proposals are intended to secure, has to some extent been achieved and that the imposition of specific central control is not the best way of achieving it. The Madras Government consider that the change recommended by the Commission gives the Central Government too wide a measure of control, and would prefer to retain the present rule, which has admitted the development of the co-ordination and co-operation which the Commission desires.

41. The financial relations between the Central and provincial Governments, and the measure of financial control which should be secured to the Central Government will be considered in connexion with the general financial proposals contained in Part VIII of the Report.

42. The Government of Madras in their Memorandum asked for a thorough examination of the present allocation of subjects between the Central and Provincial spheres, in order that the list of Central subjects might be strictly confined to those in which provincial boundaries have no place. The Commission has not accepted this suggestion, though it admits that experience may show from time to time the necessity of changes in the distribution. This Government still consider that the present allocation of subjects should be carefully examined, and I am to ask that arrangements

may be made for this to be done. I am to add that this Government accept the two specific recommendations of the Commission with regard to the C.I.D. organization and to factory legislation and labour welfare.

43. There is one matter concerning the relations between the Centre and the provinces to which the Madras Government alluded in the Memorandum which they submitted to the Commission, but which the Commission has left unmentioned, namely, the desirability of continuing the present system by which certain Central subjects are administered through the agency of the provincial Governments. The recommendation of the Madras Government was that in future the Governor, and not the Government, should be the agent of the Central Government. I am to say that the Government have given further consideration to this matter and are now of the opinion that it is not necessary for the Governor to be the agent of the Central Government. If the Central Government are not prepared to appoint their own officers to administer all Central subjects, they should arrange with local Governments to act as their agents; and the local officers of the local Governments should be employed in the administration of details; and for this agency work the local Governments might reasonably receive a subsidy from the Central Government. In short, the Government of Madras are now of the opinion that for the administration of such Central subjects as are not administered through officers of the Central Government, the Government, and not the Governor, should be the agent.

PART V.—DEFENCE OF INDIA.

44. Although the Madras Government feel that the future of the army in India is primarily the concern of the Government of India, they wish to express the opinion, which is widely held, that the Indianization of the army should proceed more rapidly than at present. They realize that the reason for such slow progress is that suitable candidates are not coming forward for commissions. They would therefore suggest that in order to obtain a larger number of suitable candidates it is absolutely necessary to establish more schools on the lines of Dehra Dun and also an Indian Sandhurst. So far as the Commission deals with the use of the army by provincial Governments for the maintenance of law and order, it proposes to meet the

difficulty of placing British troops under the uncontrolled orders of elected Ministers by requiring that every demand for Imperial troops should be put forward by the express authority of the Governor, who should, as far as possible, satisfy himself as to their legitimate employment. I am to say that, in the opinion of the Madras Government, this provision will not work. In the first place it will impair the responsibility of District Magistrates and the Commissioner of Police for the maintenance of peace in their charges; and in the second place, as the Commission itself concedes, in cases of emergency it may not be possible to obtain the Governor's authorization before sending a requisition for troops. For these reasons the Madras Government consider that the normal procedure should be that which the Commission suggests for cases of emergency, *viz.*, that the Governor's subsequent personal endorsement should be obtained at the earliest possible moment for every application for military aid.

45. There is one other matter connected with the army upon which the Madras Government wish to lay stress, *viz.*, the need for the revival of the old Madras regiments. In Volume I, paragraph 116 of the Report, the Commission notices the remarkable variations in the contributions which provinces make to the Indian army. The Government of Madras would remind the Government of India that the pre-eminence of the Punjab and the United Provinces as recruiting grounds for the army is comparatively recent, and has been a natural consequence of the gradual reduction of the old Madras army till there are now only three Madras regiments left. The Madras army has a fine record of gallant and loyal service, and military traditions are still strong in many parts of the Madras Presidency. If the North India recruit is admittedly superior in physique, the Madrasi claims superiority in intelligence, which is likely to count for more in the future than it has done in the past.

46. The Government of Madras consider that the interest of the Province demands that the military tradition and the proved military capacity of the Madrasi should be recognized by the restoration of the old Madras regiments. So long as the army is an Imperial concern, it is obviously desirable that it should be associated by recruitment with as wide an area as possible; and the revival of the Madras regiments may also help towards the attainment of the goal mentioned in Volume II, paragraph 211 of the Report, the

possession by a self-governing India of military forces of its own; for the fact that at present such an overwhelming proportion of the army is recruited from the Punjab and the United Provinces is one of the obstacles to the formation of an Indian National Army on which the Commission has laid stress.

PART VIII —INDIAN FINANCE.

SIR W. LAYTON'S REPORT.

47. The Commission accepts the general principles of its financial assessor Sir W. Layton's scheme for the division of resources in British India between the Central and provincial Governments. The Madras Government are not of course able to say whether the premises on which Sir W. Layton bases his scheme are correct or not; but, assuming that they are correct, the Madras Government, subject to the observations made in the following paragraphs, are in general agreement with his proposals. The scheme is based on the assumption that Central revenues are likely to expand so rapidly as to yield a surplus of Rs. 14½ crores at the end of ten years. It includes—

- (1) proposals for the reallocation of existing revenues, and
- (2) proposals for new taxation (*a*) to be levied and spent by the provinces, (*b*) to be levied centrally and distributed to provinces according to origin, and (*c*) to be levied centrally at the request of the provinces and distributed according to population.

The proposals for the reallocation of existing revenue concern (1) excise on foreign liquor, (2) commercial stamps, (3) income-tax and (4) salt duty. As regards foreign liquor, the proposal is that the customs duty should be reduced to the standard luxury rate of 30 per cent. and that the provinces should be given the right of imposing further duties in the form of excises. It is estimated that by this change the revenue of Madras will benefit by Rs. 16·45 lakhs a year. As regards commercial stamps, the proposal is that the revenue from certain commercial stamps, which ought to be uniform throughout India, should be surrendered by the provinces to the Central Government. It is estimated that this would cost the Madras Government about Rs. 30

lakhs a year. Sir W. Layton shows that the losses and gains by the Central and provincial Governments from these two changes would approximately balance. But Madras stands to lose about Rs. 13½ lakhs a year; consequently other provinces are to benefit at the expense of Madras. The Madras Government, in their Memorandum, laid down the postulate that any adjustment of financial relations must not involve the sacrifice on the part of any province of any revenues now accruing to it, and stated that any loss which such adjustments might involve should be made good by an equivalent assignment. If no other changes in the distribution of the receipts from taxes are made at the same time, the Madras Government wish to press this claim for a balancing contribution, so that this adjustment may not involve the benefit of other provinces at the expense of Madras.

48. Sir W. Layton proposes to assign to the provinces half of the income-tax paid by residents of the provinces on their personal incomes. It is estimated that this will benefit the revenues of Madras by about Rs. 35 lakhs. The Madras Government have strongly objected to any allocation of income-tax based on the place of collection. The present proposal is not open to this objection, as the share of the personal income-tax is to be allocated to the province on the basis of the place of residence of the assessee. The Government accordingly accept this proposal.

49. Sir W. Layton further proposes that as soon as the resources of the Central Government permit, the proceeds of the salt duty should be transferred to the provinces. This proposal also is acceptable to the Madras Government.

50. The new taxation to be levied and spent by the provinces is (1) a surcharge not exceeding one-half of the share of the personal income-tax transferred to the provinces, and (2) a terminal tax. The Madras Government have no objections to urge against these proposals for new provincial taxation.

51. Sir W. Layton next proposes that the exemption from liability to income-tax now enjoyed by agricultural incomes should be withdrawn, and that the income-tax derived from this source should be distributed to the provinces according to origin. The proposal as it stands means that a province will be compelled to levy income-tax on agricultural incomes, although the Provincial Government may not consider it desirable or necessary, in order that

other provinces which need additional revenue may be able to obtain it. A serious objection to this proposal is that the Madras Government do not consider it equitable to tax the income from land held on ryotwari tenure, unless the income from land in permanently settled estates also is assessed to tax; and the levy of income-tax on the agricultural income of holders of permanently settled estates will certainly in Madras be regarded as a breach of the conditions under which the permanent settlement of the estates was carried out; for the sanad granted to every holder of a permanently settled estate contains the following clause:—

“ The British Government . . . resolved . . .
to grant to zamindars and other landholders,
their heirs and successors, a permanent property
in their land in all time to come; to fix for ever
a moderate assessment of public revenue on such
lands which shall never be liable to change under
any circumstances; to institute courts of judica-
ture for the protection of these valuable rights;
.”

It may, however, be noted that the fourth clause of the sanad contains the reservation that the permanent assessment of the land-tax in a zamindari is exclusive of “ all taxes, personal and professional ”; and it is arguable that the levy of income-tax is permissible under this clause.

52. The Government of Madras believe that the adoption of this measure will alienate the sympathy of the zamindars of the province, who have always stood by them, and will provoke excessive litigation. And for this reason they consider that no attempt should be made to levy income-tax on the agricultural incomes of the holders of these estates, without a complete examination of the conditions under which their estates are held and without coming to some amicable arrangement with the zamindars or their representatives. This Government, however, do not for this reason wish to prevent other provinces from levying the tax on agricultural incomes if they find it necessary and possible to do so. It does not seem to this Government to be necessary that this tax should be levied centrally. The only apparent reason why Sir W. Layton proposes to levy the tax centrally is that the withdrawal of the exemption from taxation of agricultural income will affect the rate at which mixed incomes are taxable; so that if in Madras agricultural

income remained exempt from taxation, a man who derives his income both from agriculture and from other sources might very probably pay income-tax on his non-agricultural income at a lower rate than a man in another province where agricultural income also is taken into account; and the Central Government would thus be a loser. This difficulty, however, can be surmounted if agricultural income, without being made liable to taxation, is taken into account in fixing the total income which determines the rate at which income-tax should be levied on the non-agricultural part of the income. This would mean that the income-tax authorities would have to *determine* the income of assesseees from all sources, including agriculture, but that the *levy* of income-tax on agricultural incomes should be left to be decided by the provinces concerned. The Government of Madras are prepared to accept an arrangement of this nature which leaves it to the discretion of the provinces to withdraw the exemption from taxation on agricultural income, but they are not prepared to accept the proposal put forward by Sir W. Layton that the Central Government should have the power to levy income-tax on agricultural incomes in all provinces, whether the provinces wish it or not.

53. The next proposal is for an excise duty on factory-produced tobacco and an excise duty on matches, to be levied centrally at the request of the provinces and distributed according to population. The Madras Government have no objection to the proposal to levy these two new taxes, if it becomes necessary to find additional revenue. The proceeds of these taxes when they are levied, and those of the salt duty when the Central revenues produce a sufficient surplus, are to go to a provincial fund. Proposals for changes in the taxes within the scope of this fund are to be considered by the Finance Ministers of the provinces meeting once a year as an Inter-Provincial Council. If the Finance Ministers of more than three provinces desire to increase or decrease the resources of the fund, it would be the duty of the Finance Member of the Central Government formally to move in the Assembly that the change may be made. The Government of Madras are doubtful whether it should be open to a minority of the Inter Provincial Financial Council to bring proposals regarding taxation before the Assembly. It seems to them that any proposal which had not the support of a majority of the Provincial Finance Ministers would not be at all likely to be accepted

by a majority of the Assembly; and they think that a minority should not have the power to initiate such proposals, which are certain to provoke considerable agitation.

54. Sir W. Layton does not state explicitly whether the residuary power of taxation should vest in the Central Government or in the provinces, but the general tenor of his report indicates that he intends to vest these residuary powers either in the provinces or in the class of taxation which he proposes to include in the provincial fund. The Government of Madras consider that there should be a clear provision in the constitution vesting the power to levy residuary taxation in the provincial Governments, subject to such control by the Central Government as may be necessary in order to safeguard the central sphere of taxation from encroachment by provincial taxation.

55. There remains the question of the general financial relations between the Central Government and the provinces. The Commission has deliberately refrained from suggesting any financial safeguards, except for the special purpose of enabling the Governor to secure supply over the limited field in which he holds in reserve special powers, or for carrying out directions which he may receive from the centre. It adds, however, that the Central Government should have the power to control borrowing by a provincial Government, to refuse a loan required by a province to meet a deficit, or, if need be, to impose discriminatory rates of interest in respect of any such loans which it grants. For the exercise of this control it is proposed that there should be a Provincial Loan Council consisting of the Finance Member of the Government of India and the Finance Ministers of the provinces; this Council would establish a borrowing programme, lay down regulations, and arrange terms. The functions of the Council will at present be advisory and on any question of withholding sanction for loans owing to a breach of the regulations, action will be taken by the Central Government after consultation with the Council. The Government of Madras accept this proposal for the establishment of the Provincial Loan Council.

56. The Madras Government, in their Memorandum, suggested that, in addition to the famine-relief fund maintained under Devolution Rule 29, an emergency fund of half a crore should be constituted to meet such emergency expenditure as the relief of distress caused by cyclones and floods. Neither Sir W. Layton nor the Commission has

noticed this suggestion; the Government of Madras consider that if a province is to be financially autonomous it must also be self-sufficient, and that a fund of this kind is essential if provincial autonomy and stability are to be preserved. I am therefore directed to press this matter again upon the attention of the Government of India.

57. The provincial accounts are at present kept by the Accountant-General, an officer of the Central Government. The Government of Madras are quite satisfied with this arrangement and would prefer that it continue. They would, however, if necessary, agree to enter into a contract with the Central Government to pay the cost of the Accountant-General's services.

58. The Government of Madras recommended that the Central Government continue to hold the balances of provincial Governments; and Sir W. Layton's recommendation is to the same effect. The Madras Government further recommended that the power conferred upon the Central Government by Devolution Rule 21, which has never been exercised, need not be retained. Sir W. Layton, however, points out that "the keeper of the cash will always have the salutary, if sometimes unpleasant, task of putting a check upon overspending by insisting that accounts are not overdrawn." Devolution Rule 21 simply gives the Central Government power to secure this object by fixing a figure below which the provincial balance shall not be allowed to fall. The Government of Madras accept the need for the retention of this power and have no objection to the continuance of Devolution Rule 21.

59. In their Memorandum, the Madras Government asked for an examination of possible means of strengthening the position of Ministers against the danger of financial irresponsibility on the part of the Legislative Council. Neither Sir W. Layton nor the Commission has mentioned this matter. The Madras Government are still convinced of the necessity of such protection for the Ministry, and would suggest, as a possible solution of the difficulty, the framing of a rule to the effect that no resolution of the Council involving the expenditure of public money shall be effective, unless the Council also passes a resolution to provide the funds necessary, and that such a money resolution shall not be moved by any member other than a Minister.

PART IX.—THE SERVICES.

60. The Commission recommends that the Indian Civil Service and the Indian Police Service should continue to be recruited on an all-India basis by the Secretary of State, who should have power under a rule similar to rule 12 of the Devolution Rules, to require provincial Governments to employ these services in such numbers and in such appointments as he thinks necessary. This recommendation is at variance with that of the Government of Madras in their Memorandum to the Commission where they advanced the view that all the all-India services in the province should be provincialized. The Government have not been able to arrive at an unanimous decision on this matter; some members maintain the argument stated in the Memorandum, *viz.*, that "responsible self-government, if it implies anything, implies that the province must be free to recruit its own servants as and when it likes. There can be no imposing upon it a body of men recruited under regulations, from sources and on rates of pay prescribed by some outside authority"; those members who maintain this view would, however, allow the provincial Government to apply to the Government of India in advance each year specifying the number of European officers they desire to be recruited for them in Great Britain and the terms on which the provincial Governments are prepared to employ them; they recognize that this system will mean that the Central Government, instead of choosing recruits for its Secretariat from members of the services in the provinces, will have to arrange for direct recruitment; but they consider that this is not a heavy price to pay to secure complete control over their servants. Other members of the Government, however, admitting the importance of the considerations which have influenced the Commission in making its recommendation, would accept this recommendation to continue the present system of recruitment.

61. The Government have considered the arguments advanced by the Commission in favour of continuing the recruitment of the Irrigation and Forest Services on an all-India basis; but they see no reason to change the opinion expressed in their Memorandum that these services should be provincialized.

62. *Safeguards.*—The Commission recommends that the right to retire on proportionate pension should be continued

to all officers who might under the rules have so retired upon the introduction of the new constitution. These rules permit retirement on proportionate pension only to officers appointed before January 1st, 1920. In view of the very considerable changes in the conditions of service which must follow this revision of the constitution, the Government of Madras consider that the right to retire on proportionate pension should be extended to all members of all-India services. The Madras Government agree with the Commission that no limit of time should be prescribed within which the right must be exercised.

63. The Commission states in general terms its purpose to leave unchanged the rights and privileges of present members of the services, and to this end proposes to maintain the safeguards in the Act itself and to provide that changes in the statutory rules affecting the services should, as hitherto, require the concurrence of the Secretary of State's Council. The Government of Madras accept these proposals, but would add, in order to secure members of all-India services against supersession by members of a provincial service, a provision that all appointments to posts included in the cadre of all-India services in the province should be made with the concurrence of the Governor.

64. With regard to pensions, the Commission merely repeats and endorses the opinion of the Lee Commission, that if any statutory change should be made, involving the transfer of financial control in this regard from the Secretary of State in Council, adequate provision should be made for safeguarding pensions. The Government of Madras believe that recent threats to repudiate debt have caused considerable uneasiness in the services with regard to the security of pensions, which will not be allayed without some more definite guarantee than is proposed by the Commission; they would accordingly propose (1) that pensions should be given similar priority as a charge on the revenues of India as the public debt, and (2) that the right to commute should be extended to the whole pension, instead of half, subject to the condition that half the sum obtained by commutation should be spent on the purchase of an annuity in an insurance office approved by the Secretary of State. The uneasiness felt by members of the services with regard to their pensions extends also to family pensions and provident funds; and the Government of Madras would suggest that these funds should either be placed in the charge of the

Public Trustee in England or of trustees appointed by the Secretary of State.

65. The Government of Madras have already set up a *Public Service Commission* which meets all the conditions postulated in the Statutory Commission's Report. This Government agree that when the Governor's Executive Council disappears it will be necessary to amend the Act so as to make the appointing authority the Governor, instead of the Governor in Council.

PART X.—THE HIGH COURT.

66. The Commission recommends that all High Courts should, for administrative purposes, be put under the Government of India. When the Commission put this suggestion to the Government of Madras, their reply was that the Government saw no reason for the transfer and that they considered that in Madras the local Government were better qualified than the Government of India to judge of the administrative needs of the High Court.

67. The Commission, finding that the Calcutta High Court is to some extent under the administrative control of the Central Government, while other High Courts are under that of the Governments of the provinces in which they are situated, observes that there is no possible justification for keeping up two systems, side by side, in British India; that the importance of maintaining the complete independence of the High Court Bench, not only in respect of private litigation, but in connexion with controversies in which the local administration may be involved, is overwhelming; and that cases may arise in which one High Court has to serve more than one provincial area. For these reasons the Commission comes to the conclusion that the best way of getting rid of the anomaly which places one High Court under the administrative control of the Central Government while the others are under that of their provincial Governments is to put all the High Courts under the administrative control of the Central Government, the expenses being borne on Central funds.

68. The Madras Government have consulted the High Court on this proposal; and I am to say that all the Judges are very much in favour of the recommendations of the Commission; they agree that it is highly desirable that both for

financial purposes and as regards administration the High Courts should be directly under the Government of India.

69. The Government of Madras are not convinced either by the arguments of the Commission or by the opinion of the Judges of the Madras High Court, that the change is necessary at present. They think that the anomaly observed by the Commission is sufficiently explained both by historical causes and also by the fact that the Calcutta High Court now serves the province of Assam as well as Bengal. They deny the insinuation that the independence of the High Court Bench is impaired by its subordination for administrative purposes to the local Government. And they do not consider it necessary now to anticipate circumstances in which the Madras High Court may have to serve more than one province. They hold that there are strong arguments against making any change. The centralization of the High Courts is inconsistent with the constitutional theory that the administration of justice is a provincial subject. There are also practical objections to the Commission's proposal; in the matter of the appointment of Judges to the High Court the only change recommended is that additional and acting Judges are to be appointed by the Governor-General instead of, as now, by the Government of India and the local Government; there is a possibility that the Governor-General may send to Madras a Judge from another province unfamiliar with provincial law or custom, for instance, with the land tenures of Madras, some of which are not only complicated but peculiar to this province; or again, the Madras Government have laid down rules for recruitment to the public service with the object of securing as far as possible that different communities obtain due representation; the High Court appoints District Munsifs; and unless the High Court remains under the administrative control of the local Government, it may not be possible to maintain in the judicial service the communal representation which is secured in all other provincial services. Again it is in the local Legislative Council that complaints against delays in the disposal of litigation, etc., are ventilated. It is the practice of the local Government to pass these complaints on to the Judges of the High Court, who so long as they are under the administrative control of the local Government, do pay attention to such representations; it is possible that if the High Court is removed from the local Government's administrative control, such complaints

may not receive the attention which is now paid to them. Seeing that to these considerations is added the fact that the administrative control of the High Court by the local Government has led to no complaint or abuse, the Government of Madras adhere to the recommendation made in their Memorandum that the present arrangements should continue.

70. I am to add that the Government of Madras wish to recommend that in any legislation affecting the status or constitution of the High Courts, the opportunity should be taken to remove the restriction now contained in section 101 (4) of the Government of India Act which requires that the Chief Justice must be a barrister.

PART XI.—RELATIONS BETWEEN HOME AND INDIAN GOVERNMENTS.

71. The Commission proposes certain modifications in the powers of the Secretary of State over provincial Governments, corresponding to the extension of the field within which responsibility for the government of British India rests upon elected Indian legislatures. In matters which concern the province alone, the Secretary of State is to have the power to issue orders only in the limited class of cases in which special powers are reserved to the Governor. In matters which concern more than one province, *i.e.*, those matters in which the Governor-General in Council is to have powers of control over provincial Governments, the Secretary of State, in the exercise of his general powers of superintendence, direction and control of the Governor-General in Council, will have the power to issue orders through that authority. The Government of Madras accept these recommendations subject to the modification of "category" (2) in paragraph 182 of the Commission's Report, suggested in paragraph 40 above.*

72. In conclusion the Government of India ask for an estimate of the reception accorded in Madras to the recommendations of the Commission. As the Government of India are probably aware, the Press, with the exception of the "Madras Mail," has been practically unanimous in its condemnation of the proposals. Most of the papers have

* Substitute for "(2) matters which may, in the opinion of the Governor-General, essentially affect the interests of any other part of India", the present rule "(2) questions arising between two provinces when the provinces concerned fail to arrive at an agreement".

contented themselves with criticism in such general terms as "an insult to India," "a constitutional freak," "a scheme which implicitly turns down Dominion Status as unsuitable to Indian conditions." But "Justice," the principal organ of the Non-Brahman party, has published a series of articles criticising in greater detail such particular recommendations as the power given to appoint officials as Ministers, the powers reserved to the Governor, the retention of nominated seats in provincial councils, the appointment of an official as Secretary to the Cabinet and the retention of recruitment to the Indian Civil Service and the Police on an all-India basis. Throughout these articles the recommendations of the Commission are compared unfavourably with the proposals made in the Memorandum which the Madras Government submitted to the Commission. Articles in the "Hindu" have criticised especially the proposals regarding non-elected Ministers, the retention of non-votable expenditure and safeguards for members of the services. "New India," opposing the Report throughout, directs special criticism at the proposals regarding the Central Government, the army and the relations contemplated between British India and the States.

73. Muslims are dissatisfied with the safeguards proposed for their interests and are inclined to insist upon compliance with all their demands; and the depressed classes, while on the whole welcoming the proposals, are opposed to the recommendation that they should obtain representation by the reservation of seats in general constituencies.

74. Most of the individual opinions reported, appeared a day or two after Volume II of the Report was published, before there could possibly have been time for a careful study of the proposals. Most of these opinions condemn the Report, but a few individuals have found in it more to praise than to blame.

No. 1/161, dated Poona, the 13th August 1930.

From—C. W. A. TURNER, Esq., C.I.E., Reforms Officer, Political Department (Reforms Office),

To—The Reforms Commissioner, Government of India, Simla.

With reference to Mr. Lewis' letter No. F. 67/30-R., dated the 24th June 1930, on the subject of the recommendations contained in Volume II of the Report of the Indian Statutory Commission, I am directed by the

Governor in Council to forward herewith the views of the Government of Bombay on the recommendations of the Indian Statutory Commission, so far as they affect this Presidency.

2. In compliance with the request made in the last sentence of paragraph 4 of Mr. Lewis' letter I am dealing in this report with the recommendations of the Commission in the order in which they are dealt with in their report.

3. *Part I and Part II, Paragraph 38.*—The Government of Bombay agree that the future constitution of India should be permanent and, with necessary safeguards, should contain within itself the means for growth and expansion. They agree also that it should be re-organised on a federal basis. The Government of Bombay also accept the proposal for the appointment of a Boundaries Commission with a view to an enquiry into any desirable redistribution of the Provincial boundaries in India. In accepting this recommendation the Government of Bombay desire to express the hope that the appointment of a Boundaries Commission will not in any way delay the introduction of the reforms, and, in the event of the Boundaries Commission recommending numerous alterations in the present organisation of provinces and of these recommendations being generally accepted, suggest that the procedure should be so regulated as to give time for the new constitution to work without being disturbed at its outset owing to readjustments of provincial boundaries.

4. *Part II, Chapter I.*—With regard to the proposals for the composition of the provincial executive the Government of Bombay do not accept the recommendation that the provincial cabinet may include Ministers appointed from outside the Council. Though there is some force in the arguments put forward by the Commission in support of their recommendation, which is not without a precedent in the Dominion Constitutions, the proposal to include in a Cabinet, jointly responsible to the Legislature, members selected from outside the legislature, seems to the Government of Bombay to be opposed to the principle of responsible government. It will create the anomaly of there being in a cabinet jointly responsible to a legislature persons who will not have been drawn from it and who will not represent the choice of the legislature. They will not have any party or following in the Council on whom they

could depend for carrying out their policy. Though in theory responsible to the legislature, they will not be removable by it, and, being appointed by the Governor, will naturally look to him for support.

The Commission have expressly stated that the overriding powers of the Governor, apart from emergencies, will in future be exercised only for specified and limited purposes and that the emergency powers will be available only when there is a breakdown. The powers suggested for the Governor are wide and intended to meet all possible contingencies. Their actual exercise will depend on circumstances. In all constitutions there must be some ultimate authority empowered to carry on the administration in emergencies, and, in the provinces of India, the Governor appears to be the only authority to whom these powers can be entrusted. In fact, the Governor's responsibilities as the head of the provincial administration are so great that with him must remain all powers not expressly transferred to the Ministry or the legislature, and it would perhaps be better not to embody these powers in the rigid language of a statute. If, however, it is decided that they must be made statutory, the Government of Bombay are in favour of the powers (constitutional, overriding and emergency) suggested by the Commission but would modify their proposals to the extent and for the reasons set forth below :—

- (i) As representation by election has been suggested for the various communities and interests which are at present represented by nomination the Governor need not be given power to nominate members up to 10 per cent. of the total seats. Nomination should be resorted to only for the purpose of providing representation for such important classes and interests as are not likely to obtain representation by any practicable system of election, or to remove any gross inequalities of representation. To provide for these contingencies the Government of Bombay are of opinion that it will suffice if the Governor is given power to nominate members up to 5 per cent. of the total seats only.
- (ii) The Governor may be given power to make rules for the transaction of business in his cabinet as recommended by the Commission in paragraph

51 but it should be understood that before making or altering any such rules he will consult the Ministry.

- (iii) The Governor should have the power to override his Ministry for the purpose of securing the carrying out of any order received by the provincial government from the Government of India or Secretary of State, but it should be made clear that the primary responsibility for securing the carrying out of such orders shall normally lie on the Ministry and that it is only when the Ministry fails or refuses to secure the carrying out of such orders that the Governor should intervene.

I am to add that, in the opinion of the local Government, the period of 12 months up to which the Commission propose the Governor should be empowered to use his emergency powers (*vide* paragraph 65 of their report) is too long. They would prefer to fix the period at six months. They recognize, however, that within the period of six months it might be impossible to obtain the approval of Parliament expressed by resolution of both Houses and suggest, therefore, that the period within which the Governor may exercise his emergency powers should be fixed at nine months. I am also to suggest that item (2) in paragraph 50 which provides that the Governor shall have power to give directions in order to prevent serious prejudice to one or more sections of the community as compared with other sections requires clarification. The clause as it stands does not make it clear whether the overriding powers of the Governor are to be exercised in the interests of the minority communities only or of majority communities also, should occasion for the exercise of powers in their favour arise. In this connection I am to say that one Honourable Member and one Minister are of opinion that item (2) in paragraph 50 is not required and should be omitted.

5. *Part II, Chapter 2.*—The Government of Bombay agree that the future constitution should not be rigid or temporary, but consider that the principles of elasticity and permanency laid down by the Commission for the provincial governments should apply, with equal force, to the constitution of the Central Government which should also be made permanent and should contain within itself

provision for its future development. An inelastic and temporary constitution at the Centre is bound to affect the constitutional growth of the provinces and may even result in retarding their progress. They are also of the opinion that the Commission's recommendation for amendment of the provincial constitution by resolution contained in paragraph 95 of the Report is unsatisfactory. Apparently the power to be conferred on the provincial councils is limited to an amendment of the legislative machine in respect of the matters specified, and in the manner and subject to the conditions mentioned, in that paragraph. A resolution of the council even when it satisfies the conditions laid down by the Commission will still require the sanction of the Governor-General and possibly of the Secretary of State. In consequence of this procedure the constitution will lose much of that elasticity which it is the very object of the Commission to provide. The Government of Bombay consider that, subject to the safeguards mentioned in paragraph 95, a resolution which has been duly passed by the council and has received the assent of the Governor should have statutory force and effect. I am to observe that the power of amendment should extend not only to an amendment of the legislative machine but to a gradual expansion, subject to necessary safeguards, of the legislative and financial powers of the council also, and that it should be available to the provincial council after a lapse of five years instead of ten years as proposed by the Commission.

6. (1) As regards the retention of communal electorates, the majority of the Government of Bombay accept the recommendations of the Commission. One Honourable Member and one Minister consider that in place of the existing separate electorates for the Muhammadans there should be joint electorates with reservation of seats for them, or, if the Muhammadan community so desire, they may select a panel out of which the candidates may be elected.

(2) The proposals for the representation of the 'depressed' classes in paragraphs 78 to 80 of the Report are in the opinion of the Government of Bombay inadequate and will not satisfy the community which has been clamouring for special representation for the last 10 years. It is very doubtful whether candidates genuinely representative of the depressed classes will be elected in a general electorate in non-Muhammadan constituencies. The Government of

Bombay, therefore, consider that the depressed classes should be provided with separate electorates of their own and should be given one-half of the number of seats to which they would be entitled on the basis of population. If this is done, the provisions suggested by the Commission that the Governor should have power to certify which candidates are authorized to stand for the depressed class seats will not be necessary. The Government of Bombay are also of the opinion that such separate electorates should be continued for 10 years only, and that the franchise qualification for the depressed classes should be the same as for the other communities.

(3) The proposals for the representation of the Indian Christians and of the Bombay University are accepted. But I am to observe that the Government of Bombay are against multiplicity of communal electorates. I am also to add that while the local Government agree that the present representation of commercial interests should be continued, they are of opinion that such representation should be in its present numbers and not in its present proportion as recommended by the Commission.

(4) The principle underlying the Commission's recommendation regarding representation of Labour contained in paragraph 89 of the Report is accepted. But the Government of Bombay consider that, in view of the fact that Labour would be represented in the general constituencies, the proposed representation should be restricted and that it should, if possible, be provided by election and not by nomination by the Governor. They are of the opinion that agricultural Labour, apart from industrial Labour, should also have special representation. Such representation should be provided by nomination by the Governor as, in view of the difficulties involved in forming suitable electorates for agricultural labourers, that appears to be the only way by which representation can be provided for them, but the question of the enfranchisement of the agricultural labour is one which the Government of Bombay desire to put before the Franchise Committee.

(5) The Government of Bombay are unable to accept the recommendation regarding the special representation of landholders, and adhere to their proposals submitted to the Indian Statutory Commission that, besides continuing the present representation of the landholders, an additional constituency for them should be created for the Southern

Division of the Presidency and one seat allotted to it. The argument that by virtue of standing and influence they have opportunities of being returned in the general constituencies applies to an equal extent to the commercial communities also, which under the Commission's recommendation are to have special electorates provided for them. The Government of Bombay are, therefore, of the opinion that, in view of the importance of the landholders and the steadying influence which they are likely to exercise in the Councils, the privilege of special representation now held by them should be continued, and that as landholders in the Southern Division, owing to the smaller number of electors in it, have, as a rule, very little chance in the election against candidates in the Central Division a separate seat should be allotted to them in the Southern Division as suggested above. One Honourable Minister dissents.

(6) The Commission's recommendations regarding the qualification of women voters call for a detailed examination. It is difficult to estimate without such examination, the statistics for which are not readily available, the number of women voters who will be enfranchised on the proposed qualifications, and what the effect of such enfranchisement would be on the electoral strength of the various communities and interests, especially as social customs will have a bearing on this question. The recommendations are, therefore, accepted, subject to investigation by the Franchise Committee.

(7) In view of the Commission's recommendation that the Anglo-Indians should have representation by election and that the Indian Christians should have it by means of reserved seats, and of their own recommendations that the depressed classes should be provided with representation by election, that the representation of industrial Labour should, if possible, be by election and that the present special representation of the landholders should be continued, the Government of Bombay consider that the Commission's recommendations regarding nomination of members contained in paragraph 92 of the Report are unnecessary, except in the case of agricultural Labour and women the representation of which can be provided for, if the proposal that the Governor should have power to nominate members up to 5 per cent. of the total number of seats only is retained.

(8) The proposals regarding the legislative powers of the Council and the Governor's powers in relation to legislation contained in paragraphs 96 and 97 of the Report appear to be suitable, except as regards the requirement of the previous sanction of the Governor-General to bills introduced in the local legislature. The existing provisions contained in section 80-A (3) of the Government of India Act cause considerable inconvenience in practice even under the present constitution, and will, it is feared, greatly hamper and delay the work of provincial legislatures, which, under the proposed constitutional advance, will extend over a much wider field than at present. It is recognised that, as the provinces have, in theory, the right to range over the whole legislative field, they should be under some restraint in the exercise of this right, so that they may not encroach upon the central sphere. The existing restrictions are, however, too rigid and need to be relaxed, as far as possible, consistently with the due discharge by the Centre of the wider interests committed to their charge. The Government of Bombay think that this can be effected by adding to the existing section 80-A (3) of the Government of India Act a proviso to the following effect :—

“ Provided that nothing hereinbefore contained shall be deemed to prohibit the local legislature of any province from making or taking into consideration without the previous sanction of the Governor-General any law satisfying conditions prescribed in this behalf by Rules under this Act.”

(9) A provision on the lines of existing section 80-C of the Government of India Act should also be made in the new Government of India Bill.

(10) The recommendation that the present distinction between non-voted and voted heads should continue is accepted, subject to the modification that in the explanation contained in the concluding paragraph of section 72-D (3) of the Government of India Act, for the word “ includes ” the word “ means ” and for the word “ allowances ” the expression “ travelling allowances ” should be substituted. The local Government consider it necessary that the definition of the expression “ salaries and pensions ” occurring in this paragraph should not include allowances other than travelling allowances. One

Honourable Member dissents from this view and considers that the concluding paragraph of section 72-D (3) should remain as it is.

7. *Part II, Chapter 3.*—The Government of Bombay agree that the franchise should be extended, so that the electorate will be trebled. It is believed that halving the present qualifications may bring about the desired result; but the matter needs to be fully investigated by an expert committee in the light of statistics. The proposed appointment of the Franchise Committee is, therefore, accepted.

8. *Part II, Chapter 4.*—Owing to the cost involved in having a second chamber and the difficulty of securing a sufficient number of suitable members for it, the Government of Bombay are not in favour of the proposal for a second chamber for this Presidency, provided that the safeguarding powers of the Governor are adequate. One Honourable Member, however, dissents from this view and thinks that a second chamber would form a useful buffer between the Council and the Governor. As regards the proposal to constitute an expert revising body to consider details of legislation, as suggested in paragraph 117 of the Report, the Government of Bombay consider that the present practice, which permits the inclusion of experts in select committees, is adequate and there is no need for an expert revising body such as is suggested by the Commission.

9. *Part III.*—The Government of Bombay have no remarks to offer on the recommendations contained in this part of the Report, as there are no areas in this Presidency notified as backward tracts under section 52-A of the Government of India Act.

10. *Part IV, Chapter I.*—(1) The proposed reconstitution of the Federal Assembly on the basis of the representation of the provinces and other areas according to population will not, it is feared, give a fair representation to the Presidency of Bombay. So far as can be foreseen, by the system of proportional representation, the various communities will enjoy practically the same representation in the Federal Assembly as they have now in the Legislative Assembly. On this point, therefore, the system is acceptable. But the proposal to fix the number of seats to be allotted to each province solely on the basis of population may lead to rather curious anomalies. The population of a province may not really be a fair test of its political or

commercial importance. The proposal is to allocate one seat per million inhabitants. On this basis the Bombay Presidency will get 19 seats, taking the figures of the last census, or possibly one or two more, when the next census figures are announced; whereas Bihar and Orissa with a population of 34 millions will get no less than 34 members and the Punjab where the population is $20\frac{1}{2}$ millions will get at least 20 members. It may conceivably be contended that the Bombay Presidency is no more advanced politically than these provinces are. But it will, it is believed, be readily admitted that so far as commerce and industry are concerned, Bombay surpasses them. The only reference to the possible effects of the new system of electing members to the Federal Assembly on commercial and industrial interests is to be found in the last sentence of the first sub-paragraph of paragraph 143, Vol. II, of the Report in which the Commission say:—

“ We have also assumed that the members in each provincial Council filling special constituency seats (Commerce and Industry, etc.) will be divided between the different communities in about the same proportions as at present.”

Whether this assumption will turn out to be correct is doubtful. The question, therefore, of proper representation of commercial and industrial interests in this Presidency appears to call for consideration.

(2) Two Honourable Members are in favour of indirect representation; all the other Members of Government favour a system of direct representation.

(3) The Government of Bombay do not agree to the recommendation that the allowances provided for the members of the Federal Assembly representing the provinces, should be a charge on provincial revenue. The Federal Assembly will meet to discuss the legislative and financial business of the Federal Government as distinguished from matters of purely provincial concern. It is, therefore, but fair that the allowances payable to its members should be a charge on central revenues.

(4) The proposal that casual vacancies in the Federal Assembly should be filled by nomination by the Governor is also not accepted. It is likely to be objected to on the ground that it does not assure to the various communities and interests their present proportion of representation.

It is suggested that it should be laid down by rule that the new member elected to fill such a vacancy shall be a representative of the community or interest to which the late member belonged.

(5) The proposals for the constitution of the Council of State are accepted subject to the following suggestions :—

- (a) that the Governor-General should consult the Governor before nominating representatives of this Presidency;
- (b) that the proportion between nominated and elected members should be modified by increasing the elected element; and
- (c) that to ensure that suitable members may be available for the Upper House under the system of indirect election the qualification for membership of the Council of State should be raised. On the Commission's recommendation suggesting the representation of Bombay City on the Council of State by two members representing Commerce, the opinion of the local Government is divided.

11. *Part IV, Chapter 2.*—The Government of Bombay are unable to accept the proposals for the constitution of the Central Government contained in this chapter. The Commission recognise that it is necessary that the Central Government should be a strong one. But it appears very doubtful whether their proposals will really bring about such a result. The last ten years have witnessed the anomaly of an irresponsible executive faced by an elected legislature armed with extensive powers, with the result that, though in theory the irresponsible executive should have been strong, in actual practice its position has been very considerably weakened. The Commission propose to continue exactly the same system with the small changes that the Governor-General in Council shall appoint the members of his Council and the Commander-in-Chief will no longer be a member either of the executive Government or of either of the legislatures. The suggestion is also made that, in future, members of the Executive Council should generally be selected from among the elected members of the legislature. It is not clear how the new executive is to be any stronger than its predecessor. In the new Federal Assembly the Governor-General is to have power

to nominate not more than 12 officials exclusive of the members of his Council who will be *ex-officio* members. In addition, he may nominate two Anglo-Indians if they fail to obtain two seats by election and he has power to nominate 11 members for the backward tracts; that is to say, the official *bloc* will be 18 members *plus* 11 from the backward tracts who will probably support Government. The other nominees from the North-West Frontier Province, Baluchistan, Coorg, Delhi and Ajmer-Merwara will probably not always be on the side of Government. Taking the strength of the Assembly to be 280, it would appear that Government would have a *bloc* amounting to about 10 per cent. of the total strength. The Central Government will, therefore, be in a worse position to pass its measures through the new Federal Assembly than is the present Government in the Legislative Assembly. The Government of Bombay are of opinion that in lieu of the constitution suggested by the Commission, a more appropriate form of constitution for the Central Executive and one which will probably go further to satisfy Indian aspirations may be to have a constitution under which the Army, Foreign Affairs, Indian States and existing External Debt will be put directly under the Viceroy and administered by him, the power to raise new loans resting with the Government of India while all other departments will be transferred to Ministers responsible to the Federal Assembly. The main objection to such a constitution would be the difficulty in arranging for the proper representation of Military and Foreign Affairs in the Legislatures. Without such representation these departments would be likely to suffer, both financially and otherwise. An alternative will be to have a true dyarchical constitution under which the Army, Foreign Affairs and Indian States would be entrusted to Members not responsible to the Assembly, all other subjects being handed over to Ministers responsible to it. It is difficult to say which of the above forms of constitution will be most in accordance with Indian sentiment. It is considered that even among the most advanced sections of Indian politicians it is admitted that, for the present at any rate, the reservation of the Army, Foreign Affairs and the Indian States is unavoidable and that they would be prepared to accept these reservations so long as they obtain the control of the other departments of the Central Government. It may be objected that in the present political turmoil in the country the transfer of the Home-

Department to a Minister responsible to the Assembly would be risky, and similarly that the transfer of the Finance Department would lead to so great a loss of confidence among the investing public as to endanger the financial stability of India. The Government of Bombay, however, consider that any risks that may be involved in the transfer of these departments to responsible Ministers must be faced to put into effect the spirit underlying the Reforms. It has to be remembered also that the Commission themselves have agreed to entrust to responsible Ministers in the provinces the departments of Law and Order and Finance. The Ministers in charge of Law and Order in the provinces will have to face the responsibility of actually dealing effectively with civil disturbances to a far greater extent than the Home Minister at the Centre will have to do. The provincial Finance Ministers will have to administer the provincial revenues, which, in the aggregate, do not fall far short of the central revenues. If such responsibilities are to be entrusted to provincial Ministers responsible to their legislatures it seems an anomaly that the same responsibilities at the Centre should not be entrusted to Ministers responsible to the Central Legislature. I am to add that one Honourable Member dissents from the proposals made above and considers that the recommendations of the Commission regarding the Central Executive should be accepted as they stand.

12. *Part IV, Chapter 4.*—The proposals regarding the Central control over the Provinces in paragraph 182 of the Report are accepted by the Government of Bombay with one dissentient subject to the suggestion that item (2) (matters which may, in the opinion of the Governor-General, essentially affect the interests of any other part of India) and item (6) (safeguarding of Imperial interests) need further definition.

I am to suggest that in the exercise of its control by the Centre care will have to be taken to avoid any action which might antagonize the Provincial Ministry and put it at variance with the Governor. Similarly, there should be no suggestion that a Minister responsible to a Provincial legislature is in any way bound to carry out orders of a responsible Minister at the Centre in his department.

13. *Part V.*—The Government of Bombay are unable to accept the Commission's recommendation that the Army in

India should be wholly under the control of the Imperial Government and that, independently of the forces controlled by the Imperial Government, the Government of India, in co-operation with the Central Legislature, might consider the practicability of organising a purely Indian military and naval force. In the present financial condition of India, the organisation of a purely Indian army, independently of the Imperial forces, is impracticable; and the Commission's recommendation, if carried out, would only have the effect of making the organisation of a Dominion army able to undertake the defence of India, independently of the Imperial army, and the consequent attainment of full Dominion Status an impossibility. The Government of Bombay consider that Indian sentiment would prefer to see a Dominion army built up under the orders of the Commander-in-Chief and that it should remain under his control. It will resent most strongly the suggestion of a superior Imperial army and an inferior Dominion army. The aim, therefore, should be to accelerate the pace of Indianisation in the existing army as far as possible. To fulfil this aim there should be an increased number of military training schools in India and one or more Indian Sandhursts should be established as soon as possible. The field from which candidates for commissioned rank in the army should be taken up should be widened and the age limit for candidates for the schools should be raised. The territorial forces should not be substituted for the regular army, but should remain a part of it and should be developed, as far as finances permit.

14. The Government of Bombay are also unable to agree to the proposals regarding the manner in which the Imperial army is to be utilised for internal security purposes. If the suggestion that the demand for troops for internal security should only be put forward by the express authority of the Governor of the province concerned or, in cases of emergency, by the Minister in the first instance, subject to the demand being endorsed at the earliest possible moment by the Governor, is accepted, it would appear inevitable that where an emergency arises requiring the aid of Imperial troops, there will almost certainly be delay in obtaining them. The Minister would hesitate to take the responsibility of calling for them without first obtaining the Governor's assent; and the unwillingness of the military authorities to take any part in the suppression of civil disturbances,—which is notorious and at the same time

understandable,—would probably lead them to insist on the Governor's orders being obtained before they would supply the troops required. The delay might have very serious consequences for the civil authorities. The further suggestion that as a safeguard against excessive use of the military, financial adjustment should be made between provincial and central revenues, if necessary, by arbitration, would inevitably entail a still further risk of delay in demanding troops in cases of emergency. While fully realising the necessity of troops only being employed in absolutely the last resort, the Government of Bombay fear that if they knew that, in the event of the emergency not proving so serious as they anticipated, the Presidency might be involved in heavy extra expenditure at the instance of the army authorities, who would, in all probability, take the line that the calling in of troops had not been justifiable, both the Governor and the Minister would be tempted to put off calling in military assistance to the last moment, when it might perhaps, in some cases, be too late to be of any use at all. The risk involved in these recommendations appears to call for very careful consideration. The Government of Bombay are of opinion that the present statutory power of the District Magistrate to call out troops for internal security purposes should be retained, as it facilitates prompt action in cases of emergency when delay would often lead to very serious consequences. It is also suggested that in connection with the provision to be made for internal security, the revival of cantonments at large industrial centres like Sholapur, Sukkur, Hubli, etc., should be considered. The Government of Bombay are fully aware that from the point of view of military efficiency such scattered cantonments are not satisfactory, but consider that the reduction in the number of troops and of cantonments which has taken place in the Bombay Presidency since 1900, from the point of view of internal security, has been too drastic. During the period 1900—30 there has been a reduction from 25 to 17 units, *viz.*, a reduction of 32 per cent., while the cantonment stations have been reduced from 20 to 9, *viz.*, by 55 per cent., not counting Belgaum which used to have 4 Infantry Battalions and a battery of Artillery and Jacobabad where one Cavalry Regiment was maintained. Recent experience has proved that in such large centres containing the usual large unruly elements to be found in all big cities the maintenance of law and order, especially at a time when one of the

periodical outbursts of communal or political agitation to which India is always liable is prevailing, would be very greatly facilitated if trained troops were available on the spot to deal at once with any local riots which may occur, and the location of such troops would prevent a great deal of the loss and suffering which are apt to occur when they are not so available. From the point of view of internal security, the moral effect of the permanent presence of troops in such large centres is of the greatest importance.

15. *Part VIII.*—Regarding Chapters 1-3, which are in the main historical and descriptive, the Government of Bombay have no comment to make except the general one that since Sir Walter Layton wrote his report the financial position of this presidency has altered definitely for the worse. In particular, the concentrated attack which has been made on the excise revenue seems likely in the current year to reduce the expectations of revenue from this source by some 70 lakhs; and whatever may be the political situation in the next and following years, it seems certain that this revenue will not be recovered in full.

16. In Chapter 4 the report discusses the possibility of various new taxes and the methods of administering them. Subject to the remarks which follow the Government of Bombay accept in general the conclusions drawn in this chapter.

(1) *Tax on agricultural income.*—The Government of Bombay, by a majority, are in favour of abolishing the total exemption of agricultural incomes, and accept the view of Sir Walter Layton that the exemption should gradually be removed. The minority would retain the exemption or would modify it only to the extent of including agricultural income for the purpose of determining whether an income is taxable or not. It is difficult to form any reliable estimate of the revenue from this source. An estimate which has been prepared puts it roughly at 25 lakhs.

(2) *Death Duties.*—The Government of Bombay reaffirm the opinion they gave to the Royal Commission in favour of the early introduction of these duties.

(3) *Excise Duties.*—The Government of Bombay accept the proposal to introduce excises on matches and tobacco. The difficulty in regard to both these taxes hitherto has been in the method of collecting them provincially. The system of central collection now proposed by the Statutory

Commission undoubtedly simplifies the problem. It is unnecessary in this report to enter into details, in regard to which separate communications have already been made to the Government of India. In regard to matches the Government of Bombay desire only to lay stress upon two points. Firstly, they agree with the recommendation of the Tariff Board that the duty in the first instance should be moderate, and they have recommended, therefore, that it should not exceed Rs. 1-8 per gross of boxes. It should be possible with this rate to assure that the whole of the increase (approximately) shall be absorbed into the Exchequer. Secondly, they support the view of the Tariff Board that if an excise duty is levied it should be "accompanied by a corresponding increase in the import duty, so as not to trench upon the degree of protection afforded to the industry".

In regard to tobacco, the Government of Bombay accept the proposal to put an excise duty on factory-produced tobacco. They consider that it should be accompanied by a tax on the retail sale effected by the issue of licenses to sell tobacco in all towns and large villages. The taxation of the manufacture of bidis, which appears theoretically just if an inequitable burden is not to be put upon the manufacture of cigarettes and cigars, presents considerable difficulty, owing to the fact that at present in this presidency at any rate, the manufacture is very largely a cottage industry. If the maximum revenue, therefore, is to be obtained from the taxation of tobacco, the Government of Bombay are inclined to favour the system already introduced into several States, of a license to cultivate.

(4) *Terminal Tax*.—The Government of Bombay are of opinion that the proposal does less than justice to the theoretical objections to this tax. They hold, moreover, that the Report has failed to give due consideration to the fact that at present the terminal tax is one of the taxes allotted to local bodies. In this Presidency no less than 31 municipalities have already imposed a terminal tax, and the difficulties which the local Government will encounter in its dealings with local bodies and with the States appear to have been overlooked. It seems likely, in view of the needs and attitude of the local bodies, that even if the Provincial Government undertook to collect the general tax it could hardly escape handing over the proceeds to all the local bodies affected, including those to whom permission to introduce the tax had hitherto been refused. Such

benefit, therefore, as the local Government would stand to gain from its general introduction would be only indirect; and the Government of Bombay are not prepared to support the proposal.

(5) *Local cess on land*.—The view expressed in paragraph 275 of the Report is accepted. Local Boards have already been given authority to raise the rate of the cess for the purpose of assisting to finance primary education.

17. *Chapter 5*.—The Government of Bombay, subject to the remarks which follow, accept the general principles laid down in this chapter relating to the distribution of revenues. The only controversial one from the point of view of Bombay is the proposal to distribute the centrally collected taxes on the basis of population. This is a principle which the people of the Bombay Presidency have always resisted for the obvious reason that while their population is only some 8 per cent. of the whole population of British India, their percentage of expenditure is about double this. On the other hand, it is recognised that the *per capita* basis of distribution is the simplest automatic test which can at the same time command public confidence and suitably benefit the backward provinces. Used then as a "corrective" to adjust inequalities between provinces, and restricted to a suitable proportion of the centrally collected revenues, the principle enunciated in paragraph 284 could be accepted. It is in the application of the principle, therefore, that we must look for its equity. If the principle be extended to the whole fund of the centrally collected taxes, the benefit to other provinces, more densely populated, but whose financial needs are far less pressing than those of Bombay, is out of all equitable proportion. In view of these comparative results, the Government of Bombay hold that it is clear that some other basis of distribution is called for which will take into consideration the financial needs of a province as well as its population. Since needs can only be determined by obligatory expenditure on essential services, it is possible that agreement on this question can only be attained after expert enquiry into the conditions of the various Provinces. If this is so, the Government of Bombay would welcome such an enquiry. It is certain that with the fall in the Excise Revenue, a fall which is no longer a threat of the future, but which has already occurred, the Government of Bombay can no longer hope to carry on with the revenues remaining at their disposal. They are, therefore, compelled to apply for

a preliminary adjustment which can meet their outstanding needs, before the application of the automatic principle.

18. *Chapter 6.—Application of the principles and allocation of existing revenues.*—Taking the recommendations in the order in which they come, the Government of Bombay have already accepted in theory, for the practical convenience of the administration, the re-arrangement which sets off an excise duty on foreign liquor against the surrender of certain non-judicial stamps. But in the calculation of the financial results of this arrangement they are unable to accept without modification the view of the Report that these two items will cancel one another. The revenue from stamps ought in the ordinary course of business to go up, while there is more than a possibility that the receipts from an excise on foreign liquor will go down.

19. *The Income-tax.*—Though the Government of Bombay are still of the opinion that a more equitable distribution would be of the total income-tax collected in the province and are not convinced that the difficulties of this solution are insuperable, still they do not desire to press this view, provided that an equitable solution can be found for the distribution of the centrally collected taxes. On this understanding they accept the proposal contained in paragraph 293.

20. In regard to the proposed schedule for the transfer of revenues it seems likely that the conditions which have supervened since Sir Walter Layton drafted his proposal have made his estimates so hypothetical that it may be impossible for the Government of India to agree to the proposed time-table. However that may be, the Government of Bombay desire to press on the Government of India that it is essential that a schedule of some kind should be prepared in order to avoid any danger of caprice in the allocation of revenues. While it may be admitted that the times and amounts for transfer, which are subject to the condition that a surplus is available, must depend upon the judgment of the Central Government, at any rate the order of the revenues for transfer can be determined by schedule, and the transfer can be made a first charge on any recurring surplus, with the additional condition that delay extending beyond a specified period shall be made good to the extent possible in subsequent years.

21. Coming to the new Provincial Taxes, the views of the Government of Bombay on the Agricultural Income-tax.

and Terminal Taxes have already been given. The Government of Bombay accept the proposal that the Provinces should be permitted to levy a surcharge on the income-tax.

22. *The Provincial Fund.*—The Government of Bombay have in a former paragraph implicitly signified their acceptance of this proposal, but have qualified their agreement to the distribution on a *per capita* basis by the proviso that the distribution of so large a proportion of the total revenues of the country on this basis does in fact lead to inequity, and should, therefore, be modified by the introduction of some other basis.

23. *Chapter 7.*—The Government of Bombay have no comments to make on the proposed constitutional machinery. It seems to follow naturally from the general recommendations of a federal scheme of Government. They only desire to point out that the desirability of dispensing with annual Finance Bills when there are no changes in the taxation suggested, referred to in Chapter 1, Part IV (paragraph 160) of the Report, applies with even greater force to the proposed Provincial Fund. They recommend that the legislation imposing the excise duties should not be voted every year but only when the Inter-provincial Finance Council has decided to make proposals for changes, which make it necessary to do so.

24. In regard to the separation of Provincial Balances, the statement in paragraph 310 is not in accordance with the views on provincial autonomy hitherto generally accepted by Provincial Governments and referred to by the Reforms Enquiry Committee in 1924. But the Government of Bombay do not wish to press for the immediate separation of balances, and agree that the question should be left open, so that any Provincial Government which desires to do so could be permitted hereafter to maintain separate balances subject to suitable arrangements being made as to detail. They assume that the Government of India would take steps in the meantime to carry out the suggestion made in the Report that no undue profit shall be made out of the business for the benefit of the Central Government.

25. The proposal for the complete separation of Accounts from Audit is in accordance with the views of the Government of Bombay already given to the Government of India.

26. The Government of Bombay welcome the proposal to set up a Provincial Loan Council, and recognise that its functions must in the first instance remain advisory.

27. *Part IX.—The Future of the Services.*—(1) As regards the retention of All-India recruitment by the Secretary of State for the "Security Services", and possibly for the Irrigation and Forest Departments, the Commission have differed from the recommendations of the Lee Commission who came to the conclusion that when a department is transferred All-India recruitment by the Secretary of State in it should cease. If the Statutory Commission's recommendations for the Provincial Governments are approved, all the departments will be transferred to the control of Ministers. The retention of All-India recruitment by the Secretary of State for these departments will entail the anomaly of the servants of a Government responsible to the legislature being appointed by an authority outside India, especially in the case of Indians. The Government of Bombay by a majority, therefore, adhere to the recommendation which they made to the Indian Statutory Commission that, in future, recruitment for the All-India Services should be carried on by the Central Public Service Commission. They consider that a European element is still required in these services and that if recruitment is carried on by the Central Public Service Commission, officers of the required standard will be obtained provided there is a guarantee of continuity of service and of reasonable protection by the Governor-General in Council. They consider that the emoluments of the officers recruited by the Public Service Commission should be votable. The minority is of opinion that recruitment by the Public Service Commission will not result in candidates of the required attainments and qualifications being obtained and is in favour of retention of recruitment by the Secretary of State. A suggestion was made for the consideration of the Government of India that recruitment by the Secretary of State for All-India Services should be continued for 10 years at the expiry of which the question should be reconsidered.

(2) As regards the Commission's recommendation that the Secretary of State should continue to have the power to prescribe the number and conditions of appointment of I.M.S. Officers to be employed in the provinces, the majority of the Government of Bombay feel that the principle adumbrated for the other Services should be adhered to in the case of the I. M. S. also. They realise, however, that in the case of the I. M. S. there are implications in connection with the Army which may make it difficult to do this.

(3) In regard to the recommendation that the rates of Indianisation laid down by the Lee Commission for "Security Services" should be maintained the local Government is divided. One Member and one Minister are in favour of the examination at Allahabad and London being held by the Indian Public Service Commission, the results merged and the best men selected. Another Member suggested that if these examinations are to be held in London and Allahabad the number of candidates to be chosen by examination each year should be fixed after deduction of nominations required to secure communal representation in the Services and should be divided in the ratio of 50 : 50 between London and Allahabad. Another suggestion made is that the rate of Indianisation suggested by the Lee Commission should be reduced to 33 Europeans to 67 Indians by 1939 for the Indian Civil Service, and 1949 for the Indian Police Service. The remaining Members favour the retention of the rates of Indianisation suggested by the Lee Commission as far as possible.

(4) The recommendation that as regards the existing members of any All-India Services for which no further recruitment will be made they should, following the recommendation of the Lee Commission, retain all the rights of the All-India Services is accepted. The Government of Bombay also accept the recommendation that the privilege of premature retirement should be extended without limit of time to any officer who might, under the present rules, have so retired upon the coming into force of the new constitution, and that the existing safeguards provided in the Government of India Act and the statutory rules made thereunder to secure the position of the Services should continue as at present.

(5) The Government of Bombay agree that officers' pensions and the Provident and Family Pension Funds should be safeguarded.

(6) If the recommendation of the local Government as regards recruitment by the Public Service Commission is accepted, the Commission's recommendation that as regards future recruits to All-India Services the Secretary of State for India should be under an obligation, if need arise, to see that such officers are treated in the spirit of the recommendation of the Joint Select Committee in regard to the Services and that he should have power to take the necessary measures automatically disappears.

(7) The recommendation that additional pensions should be given to Governors of Provinces who belong to the Services is accepted. While recognising that the appointment of Governors from the I. C. S. is a reward which may enhance the attractions of the Service from a recruitment point of view, the majority of Government are of opinion that Governors should not be appointed from the Services.

The recommendation that some increment to the pension of a Member of the Civil Service who, being selected by a Governor to be a Member of his Cabinet, has to retire earlier than he would have done if he had not been so appointed be granted is not accepted, as the Government of Bombay do not agree to the recommendation that the Governor should have power to appoint an official as a Cabinet Minister.

(8) The Government of Bombay accept all the recommendations made by the Commission with regard to the Public Service Commissions.

28. *Part X.—High Courts.*—On principle, and still more on administrative grounds, the Commission's proposal to centralise the High Courts cannot be accepted. When recommending the centralisation of the High Courts, the Commission appear to have failed to realise that, besides the Judges of the High Court, the judicial organisation in the provinces comprises the district judges, subordinate judges, magistrates and other judicial officers. Before appointments to the district and subordinate courts are made, the High Court is invariably consulted by the local Government; and it is essential that the existing relations between them should be maintained. As stated by the High Court in their Memorandum* to the Indian Statutory Commission, the appointments, transfers and leave of all those officials must necessarily involve a local knowledge and heavy correspondence which is not of sufficient importance to justify the expense and delay which would be caused by its transfer to Delhi and Simla. The relations between the Bombay High Court, the Court of the Judicial Commissioner of Sind, and the local Government have been cordial and the Government of Bombay do not think that any case has been made out for a change in the existing arrangement.

29. *Part XI.*—(1) The recommendations contained in this Part are based on the principle that the ultimate

responsibility for the welfare and government of the people of India shall continue to rest with Parliament and that the largest possible measure of responsibility shall be transferred to the Provinces, and such relaxation of control shall take place at the Centre, as is compatible with the due discharge of its responsibilities by Parliament. The Secretary of State for India will continue as the agent of Parliament in all matters relating to the affairs of India, and it is, therefore, necessary that he should have the powers proposed to be conferred on him to enable him to discharge his duties under the Constitution. But the Council of India which is attached to him as an advisory body stands on a different footing. Though in theory intended to keep the Secretary of State informed of the existing conditions in India and to advise him on questions relating to the affairs of India of which it is intended to have knowledge and experience, it is unable, by virtue of its constitution, fully to fulfil the object for which it was constituted. It is liable to be out of touch with existing conditions. Its members are appointed for a term of years and seldom live in India after their appointment. The *pros* and *cons* of each problem are so thoroughly examined in India that it does not seem necessary to have a separate advisory body in London. Indian opinion entitled to consideration is against its continuance. The Government of Bombay are of the opinion that, in pursuance of the goal towards which India is advancing, it is advisable to transfer powers, as far as possible, from the India Office to the Government of India. The Secretary of State might have expert advisers on the remaining minimum number of subjects—the Services, Finance and the Army. Differences on questions of high policy between the Imperial Government and the Government of India should be settled by negotiation as suggested in paragraph 359 of the Report. Two Honourable Members are in favour of the retention of an India Council reduced in size and with limited duties.

(2) With regard to the view taken by the Commission on the "Fiscal convention", the Government of Bombay suggest that in view of the Commission's definition of the principle of delegation of powers by the Secretary of State to the Government of India, the subjects on which the principle underlying the fiscal convention cannot be allowed should be categorically stated and should not travel beyond the Secretary of State's sphere of control.

(3) The proposals regarding the functions of the High Commissioner contained in paragraph 361 of the Report are accepted.

30. As regards paragraph 5 of Mr. Lewis' letter in which he asks for an estimate of the reception which the recommendations of the Commission have received in the Presidency, I am to state that this reception has been almost uniformly adverse. In quarters where the proposals have not been summarily rejected as unsatisfactory, they have been described as disappointing, retrograde, and reactionary. Even moderate opinion seems to have been gravely disappointed with them. The extremists will, of course, have nothing to do with the Report and have expressed no opinions save those of the bitterest enmity. They condemn it as nothing less than an insult to India and an instrument to perpetuate foreign domination over the country.

The Liberals, Responsivists and the Indian Mercantile Community have been only a degree less severe in their condemnation of the recommendations. They recognise that there are good features therein, but say that these are largely matters of detail and that in essentials such as the constitution of the Central Government, Indian control of defence and the Army, control of finance and fiscal policy, the responsibility of the Central Government to the Central Legislature, freedom from interference of the Secretary of State and control over the Services, the Report suggests no advance. The recognition of the unity of British India and the Indian States and the need for a federal system of Government embracing both has met with some approval.

What may be termed public orthodox Muhammadan opinion is a little more favourable, but goes little beyond the point where the recommendations appear to aid the Muhammadans in their desire to avoid Hindu ascendancy. Similarly the non-Brahman party publicly express disappointment with the proposals. On the whole, it appears that no section of Indian opinion in this Presidency regards the Commission's Report as much more than an item for discussion at the Round Table Conference.

31. The Press holds much the same views as those given above. Practically all vernacular papers, barring a few unimportant and uninfluential ones, have severely condemned the recommendations as inadequate, out of date and

even retrograde. Of the English papers while the "Indian Daily Mail" and the "Bombay Chronicle" have condemned it as inadequate and an affront to India, the "Times of India" has taken a moderate view. In its opinion while the proposals for provincial self-government are more generous than most people expected, those for the constitution of the Central Government are, on the other hand, bound to be widely condemned. It adds that the proposals for the constitution of the Central Government need to be revised and such revision should appropriately be discussed at the Round Table Conference.

No. 1601, dated Bombay, the 3rd July 1930.

From—K. C. SEN, Esq., I.C.S., Registrar, His Majesty's High Court of Judicature, Bombay, Appellate Side,

To—The Secretary to the Government of Bombay, Home Department, Bombay.

With reference to your letter No. 7565/2, dated the 28th June 1930, on the subject noted above, I am directed by the Honourable the Chief Justice and Judges to say that in view of the uncertainty that seems to exist at present as to what form the future constitution of India is likely to take and what the relations between the Central and local Governments are likely to be under that constitution, Their Lordships think that they cannot usefully offer any opinion on the subject at the present moment or add anything to the views they have already expressed in their printed Memorandum submitted to the Indian Statutory Commission, 1928, a copy of which is appended hereto.

Memorandum submitted by the Chief Justice and Judges of the High Court of Bombay to the Indian Statutory Commission, 1928, through the Government of Bombay.

1. In submitting this Memorandum to the Indian Statutory Commission through the Government of Bombay, the Chief Justice and Judges of the High Court of Bombay desire in the first place to explain their position. It is not the practice of this High Court to tender advice to Government unless requested so to do, or unless the matter is one coming under the direct cognizance of the High Court, and is of such a nature that the attention of Government may be usefully drawn to it. Hitherto no official request has

been sent to the High Court either by Government or the Indian Statutory Commission to tender advice on any subject coming within the scope of the Commission, nor have any papers on the subject been officially circulated to the High Court. As regards the bulk of the work of the Commission this is clearly understandable, for presumably it will be mainly political in the modern sense of that word, and as regards such matters the High Court is in no way concerned. On the contrary its settled practice is to keep strictly aloof therefrom.

2. It would however appear from a Memorandum published in March 1928 in the public press and elsewhere that the Commission has invited statements both from official and non-official sources, from representative associations, local bodies and responsible individuals on any of the subjects falling within the limits of the enquiry to be undertaken by the Commission, and that amongst such subjects are included as item No. 7 "The Courts and the Judiciary". Further quite recently there has been published in the public press a Memorandum submitted to the Commission by the Associated Chambers of Commerce of India and Ceylon, in the course of which they propose that all High Courts in India should be under the Government of India both for administration and finance. They further suggest that a Supreme Court may become necessary. These proposals are important in themselves, and come from a body of great importance; and they directly affect this High Court and the Presidency at large. If then the Commission is prepared to consider these proposals as falling within the limits of their enquiry, it would seem desirable that some opportunity should be given to this High Court of expressing its views on the subject. Before doing so however this High Court would have preferred to have had the advantage of a discussion on the subject with representatives of the Government of Bombay, but as time presses owing to the Commission visiting the Presidency of Bombay first, it has been thought desirable that the High Court should make the following preliminary statement, confined in the first instance to the proposals made by the Associated Chambers of Commerce, and should ask for liberty to supplement it at a later stage if necessary.

3. At the outset then it may be found convenient to state briefly the history and the present jurisdiction and

position of this High Court. It represents an amalgamation effected in 1862 of (a) the Supreme Court of Bombay founded by the King's Charter of 1823 and inheriting earlier jurisdiction acquired at various times since the cession of Bombay to the Crown in 1661, and (b) the Courts founded by the East India Company in the up-country or mofussil districts of the Presidency. The former (a) represented the King's Courts and was granted by the Charter of 1823, speaking generally, the jurisdiction of the Courts in England so far as regards the town and island of Bombay. The latter (b) took their jurisdiction from legislative authority conferred upon the East India Company. The main area then of this High Court's jurisdiction still divides itself into two natural branches, *viz.*, (i) the town and island of Bombay which may be called Bombay and (ii) the up-country or mofussil districts. As regards (i) the Court is concerned with a great commercial city ranking third or fourth in population amongst all the cities of the British Empire. And here the Court has to deal with suits from start to finish, for they all originate in Bombay and are tried there. Hence this main branch of the Court is called "the Original Side". As regards (ii) the Court is concerned with the problems of large agricultural areas, for the up-country districts apart from large towns like Poona and Ahmedabad are mainly devoted to agriculture. And here the Court has to deal with suits on appeal, for they originate and are tried in the mofussil. Hence this other main branch of the High Court is called "the Appellate Side". Accordingly, the main feature of litigation in Bombay is originating or appellate mercantile and commercial litigation, particularly relating to the sale of goods. The main feature of litigation from the up-country or mofussil districts is appellate litigation concerning land.

4. As regards the general nature of this jurisdiction, it is of a most extensive and varied character. It includes every variety of civil suit from mortgages down to divorce, apart from revenue matters, and even there this High Court is given by statute a special jurisdiction as regards for instance income-tax and super-tax. It also includes all criminal jurisdiction. This civil and criminal jurisdiction is exercised over some 16 millions of people living in an area of some 77,700 square miles in the Presidency proper, excluding Sind. This High Court has also special jurisdiction over certain cases coming from the Persian

Gulf, Aden and Zanzibar and it is proposed by the Home Government (contrary to the wishes of this High Court) to extend it to Abyssinia.

5. With this large population, the litigation naturally runs into large figures, as will be seen from the Report on the Administration of Civil and Criminal Justice in the Bombay Presidency for the year 1926. Taking first the Original Side (which is the largest Original Side of any High Court in India) it will be seen from page 82 that during that year 3,621 suits were disposed of in addition to 21 Testamentary suits and 1,168 Insolvency matters making a total of 4,818. It also disposed of 88 appeals from its original jurisdiction. As regards Criminal Sessions 105 cases were disposed of, all of which were tried with juries. Turning next to the Appellate Side, 1,193 civil appeals in all were disposed of, in addition to 1,361 miscellaneous civil matters (see page 85). As regards criminal work, 642 appeals and 390 references were disposed of, in addition to 161 miscellaneous applications. The aggregate total then for the year on both Original and Appellate Sides, civil and criminal, amounts to some 5,670 suits, cases and appeals, and 3,090 Insolvency and other miscellaneous matters.

6. Turning next to the Mofussil Courts, it will be seen from page 80 of this Report that during the year 1926 they disposed of 128,515 civil suits and 4,604 civil appeals. In addition 708 criminal cases and 1,710 criminal appeals were disposed of by the Sessions Courts. The above is apart from the Small Causes Court, Bombay, which disposed of 35,137 civil suits. It is also irrespective of a very large number of criminal matters tried by the Magistrates in Bombay and in the mofussil. From page 38 it would appear that about 266,237 persons were put on trial, other than in the Courts of Session or Superior Courts.

7. The judicial staff to dispose of this litigation will be found at pages 1 and 17 of the Report. It consists as far as the High Court is concerned of 8 permanent Judges (including the Chief Justice) and 1 or 2 temporary additional Judges. As this staff is unable to cope with the voluminous civil and criminal work on both the Original and Appellate Sides without there being regrettable arrears, an increase to 11 permanent Judges has been asked for. This request is still under the consideration of Government. As regards the mofussil, the staff is

divided up into some 17 different Districts, at the head of each of which there is a District Judge. Under the District Judges there are for civil work some 22 first class and 104 second class Subordinate Judges in addition to 2 Joint-Judges, 7 Assistant Judges and 2 Small Cause Court Judges. This is exclusive of the Bombay Small Causes Court which has 6 Judges. As regards the criminal work each District Judge is also Sessions Judge, and usually the above Joint and Assistant Judges are given the powers of additional Sessions Judges. Apart from these officers, there is a large number of magistrates, most of whom are not engaged exclusively in judicial work, but have executive duties to perform as well such as revenue or police work. The Report at page 17 shows that there were some 974 first, second and third class Magistrates, 467 Honorary Magistrates and 19,741 Police Village Patels for the year in question. Under section 107 of the Government of India Act the High Court is given the superintendence over all Courts subject to its appellate Jurisdiction, and may make general rules for regulating the practice and proceedings of such Courts, subject to the previous approval of the Government of Bombay.

8. The income brought in from this litigation also runs to large figures. As regards the Original Side the receipts for 1926 were Rs. 10,16,740 and the expenditure Rs. 7,02,345 leaving a net surplus of Rs. 3,14,395 (see pages 5 and 6 of the Report). This is irrespective of Rs. 10,87,212 collected by the High Court for Probate Duty, and if 10 per cent. is allowed for the cost of collection, this surplus would be increased to Rs. 4,23,116. On the Appellate Side however the receipts of Rs. 1,83,987 were less than the expenditure of Rs. 3,92,270 by Rs. 2,10,029. But if this deficit of Rs. 2,10,029 be deducted from the above net surplus of Rs. 4,23,116 on the Original Side, a final surplus profit is shown of Rs. 2,05,087. The above expenditure includes the salaries of the High Court Judges. In effect these figures show that the civil litigant on the Original Side pays for the costs of all the Original Side civil and criminal litigation and also for the deficit on the Appellate Side caused by the appellate civil and criminal work from the mofussil.

9. As regards the financial figures for all the Courts of the Presidency, both civil and criminal, the surplus of receipts over expenditure for the year 1926 was

Rs. 30,57,574 according to the official return of the Accountant-General. This expenditure included expenditure over new buildings amounting to Rs. 9,00,000 and also repairs to buildings to the extent of Rs. 87,203. Speaking generally then it would appear that the Courts whether in Bombay or the mofussil bring in a substantial net revenue to Government, after paying all expenses including salaries and expenditure on buildings, and the cost of criminal work; and that it is the civil litigant who mainly produces this satisfactory financial result. This has to be borne in mind in considering any question of the transfer of the High Court to the Government of India for administrative or financial purposes.

10. The permanent High Court Judges are appointed by His Majesty and hold office during His Majesty's pleasure [sections 101 (2) and 102 (1), Government of India Act, 1915]. In practice in recent years they undertake on appointment to retire at 60, though there is no provision to this effect in the Act. This age-limit is not always to the advantage of the High Court, and might be reconsidered. Temporary additional Judges for periods not exceeding two years are appointed by the Governor-General in Council [section 101 (2) (i)] and acting Judges to fill temporary vacancies by the Government of Bombay (section 105). The salaries, furloughs and pensions of the High Court Judges are regulated by special statutory rules made by the Secretary of State which will be found in the India Office List, 1928, page 388. The grant of furlough rests usually with the Government of Bombay.

11. The office staff of the High Court is appointed by the Chief Justice under clause 8 of the Letters Patent of 1865, and they are paid such reasonable salaries as he appoints and as the Governor of Bombay in Council subject to the control of the Governor-General in Council shall approve of. The aggregate office staff numbers about 212, including the Insolvency Department which accounts for 33 and the Translation Department which accounts for 55 members. They are under the general control of the Chief Justice.

12. The work of the High Court falls into two natural divisions, *viz.*, (a) its judicial work and (b) its administrative work. As regards (a) the sittings in open Court are substantially the same as in the High Court in England, *viz.*, 5 hours per day for 5 days per week. The Bombay

Vacations (including the Christmas and Easter holidays) are less, *viz.*, $12\frac{1}{2}$ weeks against $16\frac{1}{2}$ weeks in England, but in Bombay the Courts are closed on certain Government public holidays numbering about 18 days in all, and therefore the aggregate Bombay vacations and holidays amount to about 15 weeks against the English High Court's $16\frac{1}{2}$ weeks. The sittings of the High Court are held solely in Bombay, and it does not move with Government to Mahableshwar and Poona. Nor does it go on circuit. In this latter respect there is no recent instance of the exercise of the powers given by clause 31 of the Letters Patent. But inspection tours of the various District Courts lasting some 4 or 5 months are or ought to be made every 2 or 3 years by a High Court Judge, and proper financial provisions ought to be made for these tours by the local Government. At present there is difficulty in obtaining financial sanction to them, and the same observation applies to short tours or visits by the Chief Justice.

13. As regards (b) the administrative work is heavy and increasing in burden. It primarily falls on the Chief Justice and on the administrative Judge, Appellate Side, and the Administrative Judge, Original Side, respectively, but many of the more important questions are laid before the Judges as a whole, and occupy a great deal of their time. This administrative work is largely effected by correspondence with Government, and includes advice on the appointments, postings and promotions of the mofussil Judges; the variations of the Courts in accordance with local needs; the finances of the High Court including salaries and other expenditure; pending or suggested legislation; the framing and amendment of rules and procedure; the admission of advocates, attorneys and vakils after examination, and the investigation of complaints. As regards legislation, it had become the practice of the Government of India and the Government of Bombay to ask the opinion of the High Court on an increasing number of Bills or Resolutions, many of which did not affect the High Court or the Courts subordinate to it. But as the result of representations made by certain High Courts, including the Bombay High Court, it is anticipated that this branch of their work will decrease. As an instance of their administrative work it may be mentioned that in the course of the last two years the Chief Justice and Judges have held an enquiry into the reorganization of the whole of the depart-

ments and staff of the High Court, the papers on which alone have run into some 800 large printed pages. There has also been an enquiry into the judicial and office staff of the several 17 District Courts and the Courts subordinate to them. The proposals of the High Court as the result of these enquiries are now before the Government of Bombay.

14. It may here be observed that even as regards any matters which may ultimately go before the Secretary of State or the Government of India, the practice is for the High Court to send them in the first instance to the Government of Bombay. This would seem clearly a convenient practice under existing conditions, for then the local Government knows of the proposals of its own High Court and can also express its own views in forwarding the papers to the Government of India. As regards appointments to the High Court, the Chief Justice is usually consulted personally on these and some other appointments. As regards appointments to the District and Subordinate Courts, the practice is for the Chief Justice and Judges to be consulted by Government.

15. To complete this sketch of the present position and work of this High Court, the Chief Justice and Judges would like to say that the tradition of this High Court has been to maintain friendly relations with its own Government without in any way jeopardizing that independence which it is essential for any efficient High Court to maintain. The personal equation may at times lead to minor variations in this respect. But the Indian Statutory Commission may take it that this High Court highly appreciates the consideration and courtesy with which it has been treated by the Government of Bombay over a long series of years in the discussion of a large number of complicated and difficult subjects.

16. Turning next to the specific proposals of the Associated Chambers of Commerce, the onus of proof would seem to lie on those who advocate the change that in future this High Court should be under the Government of India both for administration and finance. It is not altogether clear whether the proposal is intended to include the District Courts as well as the High Court itself. If, however, the proposal does extend to the District Courts, then this High Court cannot support it. The figures for the Districts given in paragraph 7 show that at present the Government of Bombay is concerned with some 160 Civil

Judges and 974 Criminal Magistrates in addition to 467 Honorary Magistrates. The appointments, transfers and leave of all these officials must necessarily involve a local knowledge and a heavy correspondence which is not of sufficient importance to justify the expense and delay caused by its transference to Delhi and Simla, and the heavy increase in that correspondence which would be caused by the Central Government having necessarily to consult the local Government in a large proportion of matters. Further, as regards the 974 Magistrates who perform both judicial and executive functions, the whole system would presumably have to be recast, as otherwise the Magistrates would be part-time officials under the Government of India and part-time officials under the Government of Bombay. It is recognized that if henceforth the High Court was to be under the Government of India, and the mofussil Courts under the Government of Bombay, there might be some risk of friction between the local Government and the High Court, but it would have to be left to the good sense of those in authority to prevent this. It is also recognized that this division would render it necessary to make some adjustment as between the Government of India and the Government of Bombay of the revenue derived from the High Court and the mofussil Courts respectively. But the latter is a financial detail.

17. Confining then the proposal to the High Court itself, but retaining the High Court's existing powers of superintendence over the District and other subordinate Courts under section 107 of the Government of India Act, the main points for consideration in favour of the proposal would appear to be as follows. First, that the centralization of the High Courts under the Government of India would tend to the unity of the Indian Empire and the greater security of the High Courts themselves. Secondly, that a central authority would tend to improve and co-ordinate the general administration of all the High Courts by adopting the good and discarding the bad methods that may now be found in individual Courts. Thirdly, that appointments would not be subject to the same political or communal pressure. Fourthly, that the High Courts would be removed from the risk of attacks in the Local Legislature, and as regards the Central Legislature, the Government of India would probably be strong enough to prevent unfair criticism. Fifthly, that the effective work of the High Courts would no longer depend on the fluctuat-

ing finances of its local Government or on the chances of some hostile vote on the annual Budget, or on the hostility or opposition of some extremist local Government of the future.

18. As regards the first and second points, the High Courts of India number at present seven. The four senior Courts are those of Calcutta, Madras, Bombay and Allahabad. The three High Courts of Patna, Lahore and Burma have been formed within the last 12 years or so. The total number of permanent and temporary additional Judges in these 7 High Courts would appear to be about 83 according to the India Office List, 1928. In addition there are several Chief Courts or Judicial Commissioner's Courts which for certain purposes have the powers of a High Court. It is not proposed to refer to them any further, except to say that as regards the Court of the Judicial Commissioner of Sind, the Act (Bombay Act No. VII of 1926) which was passed to convert it into a Chief Court with increased status and powers has not yet been carried into effect owing, it is believed, to the financial condition of the Government of Bombay. Nor is it proposed to deal specifically with any of the other High Courts except to say that the High Court of Calcutta has long been under the Government of India, and that therefore their Judges are in a position to state the advantages and disadvantages they have thereby experienced. The distances between the Provinces are so great and the existing opportunities of meeting Judges from another Province are so slender that these factors added to the diversity in the needs and procedure of the various Provinces make it impracticable for the Judges of this High Court usefully to make any specific suggestions as to the work or needs of any other High Court. No doubt this to some degree bears out the suggested need for a central authority. The Privy Council, for instance, has been a strong link in connecting up the various parts of the British Empire from a judicial point of view. And in time the Government of India might be able to effect a similar result within the Indian Empire from an administrative point of view. But against this has to be weighed the practical difficulty of a central authority acquiring sufficient personal knowledge of the needs of the various High Courts spread as they are over a vast area of approximately the size of Europe (apart from Russia) and containing an aggregate population of over 300 millions.

19. In this latter connection it may be observed that ordinarily under the above proposal the High Courts would come under the Home Department of the Government of India. But that is already an over-worked Department, and the member in charge who usually acts as Prime Minister and Leader of the House will normally be more interested in politics and activities of general administration than in the judiciary and Courts. This, however, would to some extent be mitigated if all the High Courts were placed under the Law Member, though as regards the question of finance, the main voice would be that of the Finance Member. This would also have the advantage of the affairs of the High Courts being dealt with by a practising lawyer, for the Law Member is usually chosen from the Bar. In that event it would no doubt be open to the Law Member to make suggestions to the various High Courts which would tend to uniformity so far as is practicable and desirable. The work, for instance, both of the Chamier Committee and the Rankin Committee were starting in the differences they disclosed in the practical working of the various High Courts. But the work of those Committees requires to be followed up, for all those differences can hardly be said to be essential.

20. One fear that has been expressed is that this change might lead to Judges being transferred from one High Court to another. This, however, would meet with strong opposition not only from the Judges themselves, but also in all probability from the Bar. At present no High Court Judge would be transferred without his consent, and there would seem no reason why this desirable practice should be altered under the above proposal. The Judges would still as before be appointed by His Majesty the King, and accordingly their appointments would still be made through the Secretary of State.

21. Another fear that has been expressed is that the above proposal would involve the Bombay Judges losing certain privileges which they at present enjoy owing to the exigencies of local conditions, *e.g.*, their existing occupation of Government bungalows, and the advantage of the 10 per cent. rule which, thanks to the efforts of the local Government, they at present enjoy. This is a serious practical matter, for a quiet house is essential for each Judge, and normal rents are so high in Bombay that suitable houses cannot be obtained for a reasonable proportion

of a Judge's existing salary. To take an extreme case, the economic rent of an unfurnished but modern Government bungalow to be paid by a High Court Judge was recently fixed by the Public Works Department at Rs. 2,000 per month or about £1,800 per annum at average rate of exchange. Seeing that the gross salary of each High Court Judge is only Rs. 4,000 per mensem before deducting income-tax, this clearly created an impossible position. Moreover the Accountant-General objected that under section 104 (2) of the Government of India Act the local Government could not extend to any High Court Judge the advantages which its own officers enjoy, *viz.*, that their rent of Government bungalows should not exceed 10 per cent. of their pay. Through the good offices of the Government of Bombay, this matter has now been rectified by a new rule issued by the Secretary of State. If, however, the present proposal was adopted, some arrangement would have to be made to prevent the Bombay Judges from being turned out of their existing homes, or deprived of the benefit of the 10 per cent. rule. Arrangements would also have to be made for the adequate housing at a reasonable rent of future Judges of the Court.

22. As regards the question of greater security raised in point 1, this can conveniently be considered along with points 3, 4 and 5 mentioned in paragraph 17. As far as attacks in the local Legislature are concerned, this High Court has so far been fortunate in having nothing said beyond the limits of fair criticism. But it is believed that such has not been the case in all Provinces. And it must be noted as a sign of the times that political adversaries are constantly endeavouring to remove their disputes to a Court of Law, and that this makes it all the more essential that the Judges should not be unfairly attacked. Thus motions have been made to one High Court or another to restrain the holding of the meetings of important Municipal Corporations, or to prevent the giving of an address or casket to the Governor of the Province, or to restrain the holding of a meeting of the Legislative Council of the Province. In the opinion of some Judges motions of this description have been far too freely entertained in the past, and are fraught with danger for the future, as they are liable to bring the Courts and the Legislature into direct conflict. It would, therefore, be a salutary rule if no High Court in the future should have power to interfere with the deliberations of any Legislative Body, apart of

course from its judicial duty to determine in case of necessity whether any particular Statute passed by that Body was in fact *ultra vires*.

23. As regards protection from political or communal pressure in making appointments, it would seem probable that the central Government would be less exposed to it than a local one. The Montagu-Chelmsford reforms have only been in operation some 10 years, but already there are indications that political or communal support can demand its *quid pro quo*. Thus some proposals for appointments have been put forward which could not be justified on merit alone, and which appear to owe their origin to political or communal considerations. Particularly is this the case with subordinate appointments. Accordingly whether or no the High Court is transferred to the Government of India, it would seem desirable that the High Court should be given some right of appeal as regards proposed judicial appointments to which it formally objected.

24. Another risk which should be guarded against is the possibility of some extremist or hostile local Government of the future harassing the High Court by the refusal of adequate financial supplies for its judicial and administrative work, and in other ways which need not be specified. As regards the High Court office staff, clause 8 of the Letters Patent gives some protection in this respect. But it would seem a prudent precaution that a specific right of appeal to the Government of India, and if necessary to the Secretary of State, should be reserved to the High Court on any question of importance. In this connection an attempt has to be made to forecast the future and to anticipate the possible results of the increased voting powers of the people and its elected representatives and the increased Indianisation of the public services.

25. This consideration brings one to the general question of finance raised by the 5th point in paragraph 17. It is a question which particularly affects this High Court, for the finances of the Government of Bombay are said to be in such an unhappy condition that judicial reforms, however beneficial, cannot be effected unless they involve no increased expenditure, and that this condition of affairs is likely to last for many years to come. This High Court has no desire to restate here the specific matters on which at present it is unfortunately in disagreement with the Government of Bombay. But a general question of

principle of some importance appears to arise, *viz.*, whether in matters vitally affecting law and justice it is sufficient to state that necessary expenditure cannot be afforded. If, for instance, the High Court rightly thinks that the condition of litigation in either the High Court or a Subordinate Court will gradually become chaotic unless an increased judicial staff is forthcoming, can want of money be a sufficient answer particularly when the necessary money is available from the surplus net profits of the court affected? It may indeed be questionable whether the High Courts should be regarded as a source of a revenue at all to Government. It would seem sufficient if the civil litigant had to pay Government merely for the cost of obtaining the redress of his own wrongs, irrespective of the cost of criminal litigation. But it is difficult to see why he should be mulcted in addition with the payment of a net profit to Government to the relief of the general tax-payer. However that may be, it would seem likely that though a central Government would closely consider any proposal for increased expenditure, it would not feel hampered by any alleged lack of funds in arriving at a decision on the merits. Moreover the central Government would have their experience of other High Courts to assist them.

26. It may further be pointed out that the exercise by a local Government of its revenue powers might seriously prejudice the proper working of the High Court. For instance, the system of costs on the Original Side is substantially the same as in England, and differs essentially from the Court Fee system prevailing in the mofussil Courts. But to some degree the Original Side has been the subject of attack by certain politicians from the mofussil. The Government of India some 2 years ago raised the question whether the Court Fee system should be adopted in all High Courts. This and other High Courts strongly opposed the suggestion, and the matter was dropped. But quite recently the Government of Bombay has again raised the point with reference to the Bombay High Court alone, and this High Court has again stated its objections. If however the local Legislature was to pass a Bill on the subject, it is arguable that under present conditions it would not be *ultra vires*. It is respectfully submitted that the High Courts should be protected against the possible exercise of any such powers.

27. Another drawback is at present experienced as regards temporary additional Judges. The appointment

of temporary High Court Judges presents in any event certain undesirable features, but these features are aggravated by delay and uncertainty in the appointments or re-appointments. For some years past this High Court has been left in uncertainty as to whether two or even one additional Judge will be given for the current year. The Budget is so framed as to leave this in doubt, and in practice it is not until the middle of March or thereabouts that it is definitely known whether the necessary financial provisions have been passed. If, for instance, the local Legislature has effected a cut in some other direction, or has thrown out certain proposed taxation, then there is a serious risk of at any rate one additional Judge being dropped. Even assuming the Budget gets through, the Government of India has still to be consulted as to the appointments to be made. And in the result the last day of the April sitting may come and the Long Vacation begin without the existing additional Judges or Judge knowing whether they are to vacate their rooms in the High Court and revert to the Bar, or whether they are expected back on the Bench. A Judge's best work can only be done with reasonable security and peace of mind. And these financial methods are not best calculated to secure either. And they also produce an undesirable dependence on the views of the local Finance Department.

28. Turning next to objections to the proposal of the Associated Chamber of Commerce, these have to some degree been stated in considering the points put forward in support of the proposal. But there remains a strong objection for consideration, *viz.*, the probable loss of the personal touch in the future relations between Government and the High Court. *Primâ facie* the local Government should know its own Bench and Bar better than a central Government can. The opportunities for meeting too are better, for even a few minutes' friendly chat at some outdoor sport or social gathering may save two busy men much time, and prevent misunderstandings in official correspondence. It has to be remembered, however, that Government is only in Bombay for some four months of the year, and that even then it is much preoccupied first by the Budget, and then by the sittings of the Legislative Council. The rest of the year Government is at either Mahabaleshwar or Poona and both of these places involve return journeys of a length and at an expenditure of time which Judges cannot afford having regard to their pressing judicial and

administrative work in Bombay. In practice then it is only during the cold weather that the High Court is likely to have the advantage of meeting the senior officers of Government. But having said that, the serious practical nature of the above objection still remains.

29. It has further been objected that a local Government would be more likely to give adequate time and attention to the views of its own single High Court than a central Government would do to any one of 7 or more High Courts placed under it. There is some weight in this, particularly if the central department was overworked. On the other hand this objection to some degree postulates that the central department might not do its duty. Even if that contingency can properly be contemplated, all the 7 High Courts would presumably be affected, and a united protest from them all would probably be more effective than would that of a single High Court subject to its own local Government.

30. It is further urged in objection that the central Government would still have to consult the local Government on many High Court matters, and that this would result in increased correspondence and delay rather than the reverse. To some degree this is probably true. But even under existing circumstances there must necessarily be a substantial correspondence between the central Government and the local Governments over the various High Courts. The only difference in the correspondence of this High Court would be that it would go direct to the Government of India and not to the Government of Bombay except in matters relating to the mofussil Courts.

31. There are doubtless other matters to be taken into consideration, but the dominating and rival contentions as this High Court sees them at present are on the one side the fear of the adverse effects which political changes may cause in the future security and efficiency of the High Courts, and on the other hand the love of their own Presidency with its past proud history and their natural preference to work with men whom they know and who know them. For the moment the High Court begs to be excused for giving its final opinion. As already pointed out it has not yet had the advantage of a discussion on the subject with representatives of its Government. It is possible that in any event its opinion will not be unanimous. But on the following points there will be no disagreement, *viz.*,

that in the view of His Majesty's Judges, the High Courts of India are one of the strongest supports of Government, and that anything that would tend to undermine them would be fraught with danger to Government itself. Agitators have fully recognised this in recent years when they started an attempt to boycott all the law courts of the country. At present, however, the village people base their simple faith on the fact that the High Court stands between them and any attempted *zulum* on the part of the local policeman or executive official. But once that High Court is rendered inefficient, then tyranny or corruption or even incompetence may prove a source of widespread discontent which it would be difficult to stay, and yet if it was unstayed would probably result in some serious disaster. The right solution then of the present proposal is a grave decision to make, and requires a reasonable opportunity for its due consideration.

32. As regards the other proposal for the formation of a Supreme Court, this matter has more than once been mooted in the central Legislature and has hitherto been rejected. This High Court amongst others has already advised against it. The practical difficulties of providing a body of Judges all under 60 and yet with sufficient experience and ability to command the confidence of all the Provinces of India even when reversing the decisions of their own High Courts, are very great, if not insuperable. The choice of a central spot with a central bar would be another difficulty. Possibly an increase in the age-limit to, say, 65, and a reduced length of sittings like the Privy Council might be palliatives. But a peripatetic Supreme Court corresponding to the High Court of Australia would probably invoke too great a physical strain on its Judges, to say nothing of the expenses of new Law Courts and accommodation in each Presidency capital. This High Court, therefore, does not support the present proposal for a Supreme Court.

33. In conclusion the Chief Justice and Judges wish to say that if the Indian Statutory Commission would like to have any oral evidence from this High Court, some of the Judges will be prepared to give it, provided their evidence can be taken *in camera* as was the case with the Chamier and Rankin Committees.

His Excellency the Governor of Bombay, having circulated the note below to his Colleagues and Ministers, has asked that it should be attached to the letter from the Government of Bombay, No. 1/161, dated the 13th August 1930, on the recommendations of the Indian Statutory Commission.

With reference to the report of the Government of Bombay, Political Department (Reforms Office), No. 1/161, dated the 13th August 1930, regarding the recommendations of the Statutory Commission, I am submitting for attachment to that report, for your information and that of the Government of India, this letter giving my personal views on what appear to me to be perhaps the most important matters, without going into details on comparatively minor points. In offering these remarks on the aspects mentioned in this letter, I am considering them from the point of view of India as a whole, and not from that of the Presidency of Bombay exclusively: (1) the Constitution of the Provincial Governments, and the Governors' powers; (2) the Constitution of the Central Government; and (3) the future of the Indian Civil and Police Services.

2. As regards (1), I feel that, assuming that there are in a Presidency or Province a good Legislative Council, experienced and broad-minded Ministers, and infrequent emergencies, the Constitution recommended by the Commission, which, except in some matters of detail, has been accepted by my Government, may be workable; but we have to try to organise, of course, on the possibility that these three assumptions, so far from materialising, may prove in fact to be far from the realities. It appears probable that emergencies may frequently occur, at all events at the outset, in one or other Province, and the Governor concerned will find himself in the position of having either to use his emergency powers, which may antagonise his Ministry, or to neglect the interests of a section of the public. A newly-appointed Governor, in particular if from Home, and with no permanent official of the Cabinet responsible to him, will especially find his position difficult should an emergency arise before he has had time to grasp the conditions in his Province, to discriminate between the claims of various communities and parties, and to learn whose advice he can trust. The absence of any experienced official in the Cabinet, on whom he could rely for advice in

dealing with an emergency, will be a conspicuous disadvantage of the new régime, seeing that the Secretaries of Departments will presumably not have the existing right of regular access to the Governor. They will be Secretaries to Ministers responsible to the Legislature, and as such may be put in an awkward position if the Governor calls on them for advice on any particular question. Unless, therefore, the administration runs smoothly and emergencies are infrequent, I have some doubts whether the Constitution proposed for the Provinces will prove workable. I admit that it is very difficult to find an alternative to it, and that there is much to be said for the argument that it is no use having Ministers at all unless they are to be trusted to carry on the administration, with reasonable efficiency and fairness. It is in connection with the Governor's duty to protect the rights of communities that I feel that he may find his relations with his Ministry the more difficult. In the event of a case arising in which the Governor is convinced that the rights of a community are being infringed, he will be placed in the position of having to tell his Ministers that he has no longer any confidence in their judgment of the claims of other communities. Then, even if he does decide to override them and they resign in consequence, he may see them returned at the next election with the same or a larger majority. Consistently with the discharge of his Statutory responsibilities, it would be impossible for him to give way and see a community subjected to treatment which he believed to be unfair. He would therefore have to decide that the situation is so grave that he must declare an emergency to have arisen and take over the whole administration personally. In this event also he will be faced with difficulty in choosing Ministers on whom he can rely to carry on the administration. He will have no Members of Council on whom he can fall back, and will have to select Ministers from among officials and non-officials none of whom may hitherto have held positions carrying such responsibilities. The selection of his Ministers under such circumstances would be an extremely difficult matter. It may be said that a position such as is described above is not likely to arise frequently. It cannot, however, be ruled out, and under such circumstances it would seem that the Governor is given responsibilities without machinery for reasonable warning of the approach of crises and means of meeting them which would prove workable in practice.

3. With regard to (2), the Constitution of the Central Government, while admitting that, when granting an extensive measure of responsible government in the Provinces, it would appear to be anomalous to retain a wholly irresponsible Executive at the Centre, I feel that the system of dyarchy at the Centre suggested by the majority of my Government has the inherent drawback that the political pressure in the Federal Assembly to which the reserved departments will be subjected is bound to weaken their administration. In the case of the Army, for instance, this is likely to have particularly serious results. The alternative appears to be an irresponsible Executive as suggested by the Statutory Commission, but whether this is likely to be a strong Government, which is essential at the Centre, is doubtful unless it is assured of sufficient support in the Federal Assembly to enable it to pass its measures. This can only be secured by creating a *bloc* of members who can be relied upon to support Government measures. Such a form of constitution at the Centre would, of course, be opposed by nearly all political parties in India, except possibly some of the Minorities which realise that their chances of securing any real remedy for their grievances from the stronger communities are remote.

4. The choice, therefore, appears to lie between a form of dyarchy at the Centre, under which the reserved departments will be weakened owing to political pressure in the Assembly, and an irresponsible Executive secure of sufficient votes in the Assembly to enable it to carry through its measures, but subject to the opposition of the majority of the political parties, which will not hesitate to stir up difficulties through the Press and platform, and possibly by actual incitement to violence when favourable opportunities occur. I find myself unable to offer any satisfactory solution of the dilemma, but I think that, if dyarchy is decided upon, it would be best, at any rate at the outset, to include law and order, with the Army and Foreign and Political Affairs, as reserved subjects. Finance will also require special safeguards at first.

5. As to (3)—the future of the Indian Civil and Police Services—I do not think that recruitment for the All India Services by the Central Public Service Commission is likely to secure European recruits with sufficiently high qualifications to justify the rates of salaries which will have to be paid to them, especially if their emoluments are

to be made votable. It may be, and probably is, desirable to retain a European element in the present All-India Services, but it can only be so long as men with first-class abilities can be secured. Second-class Europeans will not be worth their salaries, and rather than employ them I would prefer to stop recruitment of Europeans for the Provinces. Even apart from the question whether suitable Europeans will be forthcoming in future, it would appear that the question of further recruitment of Europeans for the Provinces calls for very careful consideration.

6. The sole object of retaining a European element in the Security Services is to strengthen the administration. This implies that at least the ratios of European and Indian members of these Services suggested by the Lee Commission must be maintained. So far as can be seen, even under present conditions it is doubtful whether this will prove to be the case. With any acceleration of retirements and diminution in recruitment, such as may probably result from the changed conditions of service under the new régime, it may soon be found that numerically the European element has become so reduced that its presence in the Services cannot appreciably strengthen them. With a system of responsible Government in force, the position of an individual district officer who wants to take a strong line in any matter of administration which may arouse opposition will be extremely difficult. As time goes on the increase in the number of Indian officers qualified for the higher selection appointments, and the natural preference which Ministers might give to them, may engender disappointment and discontent among Europeans, which must affect their efficiency. The reduction in the numbers of Europeans in the Services must also lead to a further increase in their social isolation which, added to the effects of the Indian climate, is likely to have a deleterious effect upon them. The above remarks apply perhaps more to the I. C. S. An increase in the numbers of Indians suited for the higher appointments in this Service is bound to occur fairly quickly owing to their natural adaptability for general administrative duties. The duties of the I. P. S. do not appeal to educated Indians in so great a degree. Some Ministers also may possibly be more inclined to insist on a fairly strong European element in the Police for some time to come. It is, however, to be considered whether the existing European element in both these Services is not sufficiently strong to tide over the period of

change to completely Indianised services which must be contemplated if Dominion Status is to be established in the country, and whether any further recruitment of Europeans is required. To continue recruitment of Europeans, when their presence is not likely to increase the strength of the administration, will add to the cost of the Provincial administration—already a serious financial burden—without any corresponding benefit; and will therefore be a justifiable cause for popular complaint.

7. I realise that European officers will probably be desirable at the Centre for some time to come, and, if recruitment of Europeans for the Provinces is stopped, it will be difficult for the Centre to secure officers with sufficient training and experience for their purposes. This is certainly a difficulty, but I think that for some years the Central Government should be able to obtain a sufficient supply of European officers from those now in the Services. Later on, if it is found that the need for Europeans at the Centre is likely to continue, it should be possible to work out an arrangement under which each Province would undertake to train a quota of officers with a view to employment at the Centre. I would also suggest that at the Centre a small service of experts in general administration, Finance, Engineering, Agriculture, Education, etc., might be maintained, the members of which might be lent as required for two or three years to the Provinces in order to advise their Governments on the matters on which they have expert knowledge. The advice of such experts would be of service to the Provincial Governments, and would help them to keep their departments at a higher standard than is possible when each Province has to depend on its own experience and practice for guidance.

Telegram from the Government of India, Reforms Office, to the Government of Bombay, No. 2940-S., dated the 31st August 1930.

Please refer to paragraph 27 (1) of your letter, dated the 13th August, No. 1/161. Government of India are not clear whether Bombay Government intend to recommend the continuance of recruitment for Irrigation service on an All-India basis either through the Secretary of State or Public Service Commission, or whether they contemplate this service being provincialised. Very early reply is requested.

Telegram from the Government of Bombay, to the Government of India, Reforms Office, dated the 7th September 1930.

Your 2940-S. of the 31st. Bombay Government recommend the continuance of recruitment for Irrigation service through Public Service Commission on an All-India basis.

No. 219-A. C., dated Calcutta, the 15th August 1930.

FROM—W. S. HOPKINS, Esq., C.I.E., O.B.E., I.C. S., Chief Secretary
to the Government of Bengal, Appointment Department,
Reforms,

TO—The Secretary to the Government of India, Reforms Office.

I am directed to refer to your letter No. F. 67-30-R., dated the 24th June 1930, on the subject of the recommendations contained in the Report of the Indian Statutory Commission, and to submit herewith the views of the Government of Bengal on such of the recommendations as have a direct interest for them or call for special mention. For convenience of reference the order in which the various subjects have been dealt with in Volume II of the Statutory Commission's Report has been followed and so far as possible an effort has been made to deal with matters of detail in the order in which they are discussed in that report. The Report has been considered by both sides of Government in Joint Meeting and the views expressed are those of Government as a whole.

2. The Government of Bengal are in full agreement with the principles laid down by the Commission that the "new constitution should as far as possible contain within itself provision for its own development" as well as "some element of elasticity enabling adjustments to be made in accordance with the conditions actually obtaining in any given province at any particular time". They consider too that the Commission are correct in their conclusion that the ultimate constitution of India must be federal, if the ideal of a united India as one of the "constituent States of the Commonwealth of Nations united under the Crown" is to be attained.

3. They recognize that it may take years before the ideal is attained and that during this period many difficulties and dangers may have to be faced and overcome. Having regard to the past history of, as well as to the conditions at present existing in the province, they cannot be blind to the dangers of communal trouble and to the risk of

the rate of progress being retarded on this account, but they look forward to the time when there will be a united Bengal and the communal danger will have passed away. Meanwhile they agree with the Commission that provision must be made for dealing with such difficulties, dangers and possible disturbances, and that until they have disappeared the presence of British troops and of British officers serving in Indian regiments will be essential; but they hope that as years go on the British proportion will steadily decrease and that India will gradually but at a steadily increasing rate of progress prove its ability to provide troops which are trusted by all sections of the community and can deal satisfactorily with problems not only of internal security but also of external defence. They recognise also that until the ideal has been attained in matters of civil administration, not only will safeguards be necessary in the interests of minorities but also of the province as a whole and they are satisfied that for these purposes the Governor must be armed with full and ample powers to deal with any emergency that may arise when the ordinary machinery of Government has come to a standstill or when its powers are seriously misdirected. They agree too that similar reserve powers must remain with the Governor-General in matters affecting the Central Government.

4. The Government of Bengal have given careful consideration to the proposals of the Commission which specially concern the provinces. They are agreed that dyarchy must go and that a unitary Government must be established. It follows, therefore, that they consider that the transfer of all subjects including Law and Order to Ministers is inevitable; but they are agreed that such transfer cannot be made without the provision of safeguards. They are also agreed that the safeguards provided in the Report in the overriding power of the Governor and the presence of an official Minister where the need for such is recognised by the Governor in consultation with the Governor-General are inadequate and illusory. The former will in practice prove to be emergency powers. For in normal times it will not be possible for the Governor to interfere with details of administration and prevent dry-rot setting in, or to act against the advice of his Ministers. He will only be able to act at a very late stage when the administration shows signs of breaking down or when a crisis has actually developed. As regards the latter, the

Legislative Council may make the appointment of officials as Ministers impossible by refusing to retain in office a Ministry which is not entirely non-official and the safeguard of having some officials as Ministers will then be non-existent.

5. There is general agreement that there would be many advantages in having an official in the Ministry, as it would facilitate the administration of Law and Order, would increase the chances of maintaining the security services at their present high level and would provide the Ministry with at any rate one member having administrative experience. As regards Law and Order it is to be remembered that the Central Committee came to the conclusion that in Bengal these subjects should be in charge of a Member not directly responsible to the legislature. Further conditions in Bengal are such that for some years to come it will be very difficult to find a non-official who is both able and willing to take charge of Law and Order, and who inspires general confidence. There are also the serious difficulties involved in placing the work of the Criminal Investigation Department under non-official supervision. For as will be seen from paragraph 39 below, Government do not consider that it will be possible for the Governor-General in Council to determine its organisation in the province. As regards the services there is general agreement that it is essential for the success of any system of reforms that not only should Bengal retain the services of the officers already serving in Bengal but that there must be a reasonable prospect of maintaining the Security Services up to the present standard by regular recruitment on the present lines, and it is recognised that both these objects are more likely to be attained if an official is available to administer the services. Lastly Government recognise that a non-official Ministry will be greatly handicapped by lack of administrative experience, especially in a presidency like Bengal where a Governor usually is appointed from the United Kingdom and has no experience of Indian administration of provincial conditions.

6. But it is also recognised that however great the advantages may be in having an official in the Ministry the Governor will not in practice be able to appoint an official as a Minister if the Council is opposed to such an appointment being made or non-officials refuse to form a Ministry if an official is included. In practice he will not be able

to exercise the powers which he possesses in theory, except with the approval of a majority in the Council and their leaders.

7. So far there is agreement, but there is a difference of opinion as to the action to be taken under these conditions. A few members are so impressed with the need for an official in the Ministry in present conditions in Bengal that they urge that a statutory rule should be framed requiring that in Bengal for the present an official should be appointed a member of the Ministry and made responsible for the administration of Law and Order and the Security Services. They feel that the difficulties in Bengal arising out of the communal problem and the terrorist revolutionary movement can only be met by an arrangement of this kind and that until these have disappeared there must be an official in the Ministry. They also argue that a statutory rule would prevent the risk of the Governor being placed in an unpleasant dilemma. He might, in consultation with the Governor-General, decide that it was necessary to have an official in the Ministry and then find that the majority in the legislature refused to co-operate with him in forming a mixed Ministry. In these circumstances he would either have to give way against his better judgment or bring about a crisis on a matter of opinion. On the other hand, if the appointment was required by rule, the amount of opposition to it would almost certainly be reduced, and if a crisis developed, the occasion would be a refusal to work the constitution and not a difference of opinion on a matter open to discussion.

8. But the other members of the Government feel that the disadvantages of having a statutory rule far outweigh the advantages to be derived from having an official in the Ministry. They consider that such a rule would establish a prejudice against the new system of Government at the very out-set, as it would be interpreted by many as a continuance of the system of dyarchy which they cordially dislike and desire above all to be rid of. It would also raise an intense feeling of bitterness among the opponents of the rule, which would increase the difficulties of administration to a far larger degree than it would be facilitated by the presence of an official in the Ministry. They are therefore strongly opposed to the proposed statutory rule.

9. But if at any time a Ministry is appointed, which includes an official, whether by the Governor with the

approval of the legislature and the consent of the non-officials, or under the requirements of a statutory rule, it is recognised that considerable administrative difficulties may arise if such a Ministry is defeated in Council and compelled to resign. There is a difference of opinion as to whether the official should be reappointed by the Governor when forming a new Ministry, but the view generally taken is that unless a Ministry had been defeated and forced to resign in connection with the policy of the official Minister which had met with the approval of the rest of the Cabinet, then there is no objection to the reappointment of the official as a member of the new Cabinet. Another section of the Government hold the view that an official who has been a member of a Ministry that has suffered defeat should not be eligible for reappointment under any circumstances. But against this view it is urged that this is placing on the official member of the Cabinet an embargo which cannot be applied to the non-official members and that it will be disadvantageous to the province as it will reduce still further the number of officials from whom the selection can be made by the Governor. A third view is that with regard to reappointment after the defeat of a Ministry the position of all Ministers including the official Minister should be the same. It is agreed however that when a Ministry has fallen because of an official Minister's policy, then it will be practically impossible for the Governor to reappoint him as a Minister. It will be necessary in these circumstances either for the official ex-Minister to have the right to retire, in which case he will be entitled to receive an extra pension as recommended in paragraph 335 of the Report, or for the Governor to have the power to appoint the ex-Minister to some other official position. It is agreed that this point is of great importance because the decision on it may considerably limit the number of officials from whom the Governor can select an official member of the Ministry. For apart from the uncertainty in the matter of tenure of office it is recognised that it may often happen that an officer for financial reasons will not be able to take the risk of joining a Ministry if the defeat of the Ministry necessarily has the result of putting him out of employment and compelling him to go on pension earlier than was his intention. It is recognised that a certain amount of risk must be faced by officers, but it is felt that it should be minimised as far as possible and that no obstacles other than those which apply generally to members.

of the services should be placed in the way of the re-employment in the ordinary line of an official who has accepted the offer of the Governor to be a member of his Ministry and whose services as such are no longer required. The orders in force which forbid the re-employment of a Member of Council in any other post should therefore be modified.

10. Having considered the possibility or necessity of providing safeguards other than the overriding powers of the Governor the Government of Bengal desire to mention only one suggestion, *viz.*, the addition of a Second Chamber to the constitution and the distribution of the seats in that chamber and in the Legislative Council in such proportions that the more stable elements in the province shall have an effective voice in all matters and be able to prevent the Ministry from taking an extreme or partisan line. The objection to this proposal is that these bodies are legislative, not executive, that they are not in session for more than a small part of the year, and that therefore they provide no safeguard in the matters of daily administration.

11. While there is some difference of opinion on the question whether the Governor should have the power to include an official in his Ministry, there is complete agreement that save an official no person who is not already a member of the legislature should be eligible for inclusion in the Ministry. Some members of Government would go further and make nominated members ineligible. It is also agreed that all Ministers should be members of the Cabinet and there should be no members of Government outside the Cabinet. The other recommendations of the Commission in paragraph 46 of their Report that ministerial salaries "should be alterable only by a provincial Statute regularly passed through all its stages" and that "the only vote of censure which could be proposed should be one against the Ministry as a whole carried after due notice" are also approved. The second of the recommendations is important because the Government of Bengal are agreed that the Ministry must have joint responsibility and that the success of a vote of censure directed principally against one of the Ministers should necessarily involve the defeat of the Ministry as a whole. It is probable that in Bengal in the future as in the past the Ministry will usually be the result of a coalition. Experience so far has shown the fickleness of many of the

supporters of such coalition Ministries; and it is hoped that in the future when the supporters of one of the Ministers realize that by joining in an attack on another member of the Ministry they must inevitably endanger the position of their own leader they will be less ready to give support to the personal animosities and hostilities which far more than any differences of opinion on political issues have been responsible for the fall of Ministries in Bengal.

12. On the question whether the Governor should appoint his own Minister or select a Chief Minister and allow the latter to nominate his colleagues, some members are opposed to the proposal to have a Chief Minister. But there is agreement that if there is a Chief Minister, then to start with the Governor should appoint his Ministers in consultation with the Chief Minister but that as the constitution develops the Chief Minister will take a larger part in choosing the other Ministers. It is agreed that the allocation of portfolios should be done by the Governor, but that before making the allocation he should consult the Chief Minister.

13. The suggestion that there should be an official Secretary to the Cabinet is approved, and it is generally agreed that he should be a permanent official. As his duties will be light, it will probably be convenient as at present to combine them with those of some other post.

Some apprehension is expressed of the effect of the suggestion in paragraph 51 of the Report that by means of this official, the Governor "would be kept impartially and fully informed of the course of business". At the same time it is recognised that if the Governor does not preside over the meetings of his Ministry, he may remain in ignorance of important facts affecting the administration. Time will show what is the best method of getting over this difficulty.

14. But it is generally recognised that in addition to and distinct from the Secretary to the Cabinet and whether there is an official Minister or not, there must be a senior official whose duty it will be to keep the Governor in touch with all that is going on and, in a province like Bengal where the Governor is usually appointed from the United Kingdom and lacking in experience of Indian conditions, to give him advice on administrative details. This official should be a senior officer with wide administrative experience, not in charge of or responsible for any depart-

ment, but attached to the Governor. He should not be Secretary to the Cabinet, but his administrative experience should be at the disposal of the Cabinet if the members desire to avail themselves of it. It is generally felt that there is a great risk under the revised constitution of the Governor getting entirely out of touch with details of administration when his Ministers are mostly if not entirely non-official, and of his being unable to detect or repair defects in the machinery until they have become serious or the machinery has come to a standstill. With an expert adviser on his staff, he will be able to make adjustment and do necessary repairs at an early stage and prevent a serious breakdown.

15. On the question whether the Governor should preside over the meetings of the Ministry no definite conclusion has been reached, the general opinion being that this question must be left to the decision of each Governor and that it will solve itself in the course of time. Against the view that the Governor should preside over the meetings it is urged that there is a real risk that in course of time he will be considered as identifying himself with the party or groups from which the Ministry is formed.

16. It is agreed that the responsibility of the Ministry to the legislature should exist for the whole provincial field, and the recommendations of the Commission in paragraph 50 of their Report regarding the purposes for which the Governor should possess overriding powers are accepted. It is agreed that the Governor in exercising these powers must be acting under the superintendence, direction and control solely of the Governor-General and not of the Governor-General in Council. The recommendations of the Commission as regards the Governor's powers to restore rejected demands and to secure the passage of legislation by certification are also approved, and lastly it is recognized that he must have the power sketched out in paragraph 65 of the Report to deal with a state of emergency.

17. The proposals of the Commission regarding the provincial legislature are generally approved save by one member who considers that the prospects of co-operation in Bengal are so gloomy that the distribution of seats in the legislature should be such that a combination of the landlords, the Muhammadans and the backward classes together with the British non-officials will give the co-

operators at times a majority and at all times at least an effective minority. His views are given at length in Appendix A. It is agreed that the life of the Council should be five years, but Government as a whole are opposed to the proposal in paragraph 135 of the Report to extend this period—it may be up to seven years—in order to make the expiry of the life of the provincial Council coincide with that of the Federal Assembly. In their opinion representatives once elected to the Federal Assembly should hold office till the expiry of the life of the Assembly and should not be unseated when the Council which has elected them to the Assembly is dissolved. It is also agreed that some enlargement of the Legislative Council is desirable in order to secure manageable constituencies for the election of its members, but it is recognized that if the proposal for a Second Chamber is adopted the increase in the size of the Council must be proportionately reduced. The proposal that it should be open to the Legislative Council to revise its numbers periodically through the method of “constitutional resolution” is also accepted, but one member would prefer that any scheme transmitted under the procedure set forth in paragraph 95 of the Report should be transmitted to the Governor-General in Council, and not to the Governor-General.

18. As regards the constitution of the Council there is irreconcilable disagreement between the Hindu and Muhammadan members of Government on the subjects of communal representation and the proportion of seats to be allotted to the Muhammadan community. The Hindu and Muhammadan views are forwarded in Appendices A and B to this letter and a further note representing Muhammadan views will be subsequently forwarded. It was agreed that this disagreement should be recognized and that the views of the European members should be submitted to the Government of India. Their view is that however undesirable in principle communal representation may be, conditions in Bengal are such that the present system must be continued until the two communities agree upon some other method of representation. They consider it most desirable that communal differences should die down; but they regard this as an ideal which is not to be attained in the near future. Consequently they consider that at present, from the point of view of practical administration, separate electorates are unavoidable.

19. On the question of the basis of distribution of seats in the Council between the Hindu and Muhammadan communities the European members are agreed that the present allocation of seats which is based on the Lucknow Pact is unfair to the Muhammadans. They also consider the recommendations of the Simon Commission, which, so long as Muhammadans in other provinces are given weightage, refuse to the Muhammadans in Bengal the position to which their numerical superiority entitles them, to be unsound in principle. In their view it is unfair under a federal system of government to maintain in a position of representative inferiority in one of the states the community which is in the majority numerically, on the ground that in other units of the federation concessions have been granted to the same community. After careful examination of rival schemes they have come to the conclusion that representation on the basis of population is the fairest method of distributing the seats in the general constituencies between Muhammadans and non-Muhammadans and they consider that any weightage that is to be given to the non-Muhammadans in respect of their wealth, education or position should be allowed for in the special and not in the general constituencies. Experience has shown that all seats in non-European special constituencies are occupied almost invariably by non-Muhammadans. They are satisfied that this state of affairs is likely to continue for many years and that any superiority in numbers which the Muhammadans may possess in respect of representation in the general constituencies will be largely, if not more than, counterbalanced by the superiority of the non-Muhammadans in the special constituencies.

20. The recommendations of the Commission regarding the representation of the depressed classes are accepted by the Government of Bengal in principle, but they are not prepared to agree to the proportion suggested in paragraph 80 of the Report, which they consider too high. In their opinion, before any decision regarding the proportion is arrived at, it will be necessary to examine the number of people of the depressed classes in the various areas in which they are largely concentrated, and to adjust their representation with some regard to the total representation of these areas. The proposals for European, Anglo-Indian and Indian Christian representation are accepted, but Government are unable to agree to the recommendation of the Commission that the official bloc should be eliminated.

Some members consider that for several years to come it will be necessary to have the Secretaries in the various departments present in Council as members of the Council. They urge that it will be difficult for non-official Ministers to have the intimate acquaintance with the business of these departments, which is required to enable them to deal with the innumerable points of detail which are continuously being raised by the members of the Legislative Council, and that it will facilitate the transaction of business by the Ministers if they have the Secretaries of the departments in their charge available in Council to assist them. The other members admit the difficulties in which Ministers will be placed, at any rate at the beginning of the new régime, if Secretaries are not present in Council, but consider that such an arrangement may place Secretaries in a very difficult position, as they may be expected to support by vote and speech measures of which they do not approve.

21. The Government of Bengal agree to the proposal to retain the representation of the Universities in the Council, but they consider that the electorate for this constituency should be changed and limited to the governing bodies, *i.e.*, the Syndicate and the Senate in the case of Calcutta University and the Court in the case of Dacca. They are agreed that such an electorate is more likely to return individuals of the type associated with University constituencies than the present system of making all graduates members of the electorate, which does not tend to the election of candidates of the proper calibre.

22. To the recommendations of the Commission on the subject of the landholders' constituencies the strongest objection is taken by several members of Government. They urge that the landholders who are returned by general constituencies do not represent the landholders' interests in the Legislative Council but are governed by the views of the people in their constituencies and of the political party which has supported them in their elections. A further argument used is that the influence of the landholders' representatives in stabilising the constitution is valuable, and, as it is considered important to introduce into the Council every possible stabilising element, there is general agreement that the separate landholder constituencies should be retained. There is some difference of opinion on the question whether their number should be

increased proportionately to the increase in the number of members of the Council, the majority being in favour of giving the landholders the same proportion as in the present Council. But the actual number must depend on the decision about a Second Chamber. .

23. The proposals for the representation of commerce and labour are approved, but Government are agreed that no special steps need be taken to secure the presence of women in the Legislative Council. In their opinion the proposals of the Simon Commission generally in respect of the representation of women are far in advance of what is either required or justified by present conditions in Bengal.

24. The proposals of the Commission regarding nominated members are approved, but the suggestion made above that Secretaries should be members of the Legislative Council will have to be borne in mind in deciding the percentage of the members of the Council to be nominated from other sections of the community.

25. The Government of Bengal are in full agreement with the proposals of the Simon Commission regarding the procedure for introducing alterations into the constitution of the provincial legislature by constitutional resolution subject to the remark made in paragraph 17 above. They accept the proposals of the Commission regarding the legislative powers of the Council and the Governor's powers in relation to legislation and finance, but consider that there should be some safeguard against reckless expenditure by a Ministry before a general election. The safeguard should take the form of power conferred on the Governor to hold up expenditure for a time.

26. On the question of the extension of the franchise opinion is divided, the majority being in favour of extending the franchise in the manner proposed in Appendix V of the Bengal Report. There is agreement, however, that if the franchise is extended it should not be lower than that now in force for union board elections. On such a franchise it is estimated that somewhere about 8 per cent. of the total population would be enfranchised, and Government agree that it would be undesirable to establish some new form of franchise in order to increase this figure to the 10 per cent. recommended by the Simon Commission. Government are agreed, however, in opposing the recommendations of the Commission regarding the qualification of women voters. They consider the propo-

asals not only unworkable in themselves but also inequitable. As stated above, they are agreed that there is no need at present of any special measures to bring more women on to the electoral roll. Further they cannot accept the recommendation of the Simon Commission that after 15 years a second Franchise Committee should be appointed to review the progress that has been made and the suitability of the electoral qualifications then existing, and they are not in favour of accepting any such arbitrary figure as 20 per cent. as the basis of a further extension of the franchise. In their opinion this matter should be left to the Council to deal with by means of constitutional resolution, and there should not be any periodical Franchise Committees appointed solely on a statistical basis without regard to the conditions generally prevailing in the province.

27. They accept the proposal of the Commission that limits should be defined and enforced for election outlay.

28. On the question of a Second Chamber in Bengal opinion is divided, some members being strongly in favour of such a Chamber and the remainder being doubtful. In these circumstances it has been decided to maintain the opinion in favour of a Second Chamber previously expressed in paragraph 10 of Part II of the Bengal Report, 1929. Should a Second Chamber be appointed, they are agreed that the functions should be those previously recommended. The suggestion of the Simon Commission for constituting an expert revising body to which legislative proposals can be submitted between the report and the third reading stages is not accepted.

29. On the questions of the boundaries of the province and of excluded areas and their treatment, there is general agreement that the introduction of whatever reforms are finally decided upon should not await the completion of the labours of the proposed Boundary Committee. This Committee will require a very long time to investigate fully the proposals for the revision of boundaries, and it is considered undesirable to keep the province indefinitely in a state of tension pending an enquiry into a matter which will not affect Bengal very much. One member suggests that the Boundary Committee might consider the restoration of the Eastern-Bengal and Assam province, but the general feeling is that it will be a great mistake to complicate the introduction of reforms by the revival of the controversies connected with the birth and death of that

province. There is general agreement that when the Boundary Commission is set up, it should have definite terms of reference given it by the Government of India and that it should not be open to any one to raise new boundary questions before it.

30. Enquiries are being made as suggested in paragraph 128 of the Report as to whether Darjeeling should continue to be in any degree excluded from the normal constitutional arrangements of Bengal, and the result of these enquiries will be reported later when they are completed. The proposals of the Commission regarding excluded areas do not meet with the approval of the Government of Bengal. The only area of this kind with which they are concerned is the Chittagong Hill Tracts, and they propose that this area should continue to be administered in the same manner as at present *mutatis mutandis*.

31. The Government of Bengal have examined with interest the proposals regarding the Central Government and the general feeling is that too little attention has been paid to the need for strengthening the Central Executive *vis-a-vis* the Central Legislature. The need for a strong Central Government is daily becoming more and more evident, and the Government of Bengal view with apprehension any proposals which will weaken rather than strengthen the position of the Executive at the centre. In their opinion good administration in recent years has been hampered by the weakness of the Central Executive *vis-a-vis* the Central Legislature, and they consider that in some respects the proposals now put forward will render the position of the Executive even worse than it is at present. They have been specially struck by the fact that in paragraph 179 of the Report the Commission accepts, apparently without any misgivings, the fact that their proposals for the composition of the Federal Assembly will give the Government an even smaller proportion of the votes in the Assembly than it has at present. One consequence will be that this will render the task of the Executive in getting through the Assembly measures which they consider essentially necessary in the interests of good administration more and more difficult and will throw a heavier burden than ever on the shoulders of the Governor-General as regards the use of his emergent powers. The Government of Bengal are agreed that there can be no retrogression at the centre, but they do not consider that

the strengthening of the position of the Executive in the legislature can be classed as retrogression. The Commission have deliberately rejected any proposals for dyarchy or divided responsibility at the centre, and in paragraph 173 they have expressly stated that the Governor-General in Council cannot be responsible to the Indian legislature in the same sense as a British Cabinet is responsible to the British Parliament. The Executive therefore will have a very heavy burden to carry and the Government of Bengal consider the Commission is wrong in weakening instead of strengthening the position of the Executive in the legislature.

32. Apart from these general comments the Government of Bengal accept the proposals of the Commission for the formation of the Federal Assembly by means of indirect election on the basis of proportionate representation, although one or two members of Government are apprehensive of the possible effect this method of election will have on Muhammadan representation unless Muhammadans are represented in the Provincial Council on a population basis. But Government are opposed to the proposal that the same individual should be allowed to sit in both the Provincial Council and the Federal Assembly. Both these bodies are likely to be in session about the same time, more especially during the budget session, and it is most undesirable that either body should not be able to count on the services of all its members when important business is to the fore. A member of the provincial legislature who becomes a member of the Federal Legislature must resign his seat in the former.

33. While there is general agreement that the system of proportionate representation should be followed in electing members to the Federal Assembly, some members of Government, in order to avoid the danger of a reduction in the Muhammadan representation owing to a split in their votes, are in favour of having a minimum number of seats reserved in the Federal Assembly for each community. They consider that such a suggestion would in part meet the difficulties of other communities in other provinces. The Muhammadan members claim that the minimum should be $33\frac{1}{3}$ per cent. of the seats in the Federal Assembly, but this claim is strongly opposed by the Hindu members, who urge that if representation in the province is to be on a population basis the same criterion should be applied in

the Central Assembly, and is not supported by the Europeans. Other members of Government feel that such a proposal for reservation of seats is undesirable and will encourage disunion among the Muhammadan members of Council in Bengal. The sole ground for separate electorates and proportionate representation is to secure adequate representation of communities, and if the representatives of any community in question put personal animosities above communal interests then the community must take the consequences.

34. The Government of Bengal are opposed to the suggestion of the Commission that allowances paid to the members of the Federal Assembly should be charged on provincial funds. In their opinion charges on account of a central body should be paid from the central fund. They agree to the proposal that the life of the Assembly should be five years, but they are of the opinion that the Governor-General ought to have the power to dissolve the Assembly and order a fresh election if at any time he considers such a course necessary. This is all the more necessary if the proportion of Government members in the Federal Assembly is to be reduced. For a position may occur in which the Executive is up against the majority in the Federal Assembly, but the Governor General believes that the views of the majority in the Assembly do not properly represent the feeling in the Federal States. In such circumstances it ought to be possible for him to dissolve the Assembly and have a fresh election and so ascertain the opinion of the federal units before being compelled to consider, if necessary, the question of using his emergent powers.

35. They agree that seats in the Federal Assembly should be allowed to the federal units on a population basis, but they are not in favour of increasing the size of the Assembly, more especially if with an increase in the size the proportion of Government members is to be reduced. If election to the Federal Assembly were direct, there might be some justification for increasing its size so as to reduce the size of the electoral areas; but the same necessity for an increase in numbers does not arise when the method of election is indirect and the electoral bodies are the Councils in the federal units. They agree that there should be nominated official members of the Federal Assembly in addition to the members of the Governor-

General's Council. They approve also of the recommendations for the representation of the Indian Christians and Anglo-Indian minorities. They accept the proposals made for filling up casual vacancies as being the best way out of a difficulty. They do not like the principle of substituting a nominated member for an elected member, but they recognize that any other method of filling the vacancy might lead in the course of the life of the Assembly to considerable changes in its composition.

36. They agree that the Council of State should be retained and that its life should be seven years, but they are not in favour of the proposals for its composition. They would prefer to continue it in its present form and with its present electorate. They are not in favour of any special arrangements to secure the presence of women in the Council of State and are opposed to creating any women's franchise for that body.

37. As regards the powers of the Central Legislature they accept generally the proposals of the Commission subject to the general remarks made above about the necessity of strengthening the Executive *vis-a-vis* the Legislature. The proposals regarding its financial powers and the division of resources between the Central and the Provincial Governments will be dealt with later in discussing Sir William Layton's proposals. On the question of the constitutional position of the Governor-General in Council the Government of Bengal are agreed that the decision of the Commission not to introduce dyarchy at the centre is correct. They consider that the objections stated in the Report against dyarchy in the provinces are conclusive against the introduction of any such system in the centre. They approve, therefore, of the proposal to maintain the present position of the Governor-General in Council and to have the Governor-General as the actual and active head of the Government. They can see no advantage in the proposal to place upon the Governor-General himself the responsibility of selecting and appointing the Members of his Council, and would prefer the present arrangements to continue. As they are not in favour of any changes in the present arrangements they consider that the proposal that the Commander-in-Chief should no longer be a Member of the Executive Council and should not sit in the legislature is a mistake. They recognize that in the past difficulties may have arisen, but

they consider that the adoption of this proposal will only increase the difficulties of the reformed Government. They agree with the proposal to have a Member of the Governor-General's Council to lead the House and consider the present position, under which a Member in charge of an ordinary department has to undertake the duties of the leader of the House in addition to his ordinary duties, is an impossible one and tends to weaken the position of the Central Government *vis-a-vis* the Assembly. They have no objection to the non-official members of the Executive Council being drawn from the ranks of members of the Central Legislature, provided it is recognized that this does not involve any theories of the Central Government being responsible to the legislature; one member of Government would like a provision that the majority of the Council shall be Indians.

38. On the subject of the relation between the centre and the provinces the Government of Bengal are agreed that the proposals of the Simon Commission should be accepted, and that the methods of influence and assistance recommended in their Report are sound. They agree that the Central Government should be able to control the financial policy of the provinces so far as loans are concerned. In emergencies they agree that the control must be exercised by the Governor-General through the Governor and not by the Governor-General in Council through the Governor in Council.

39. There is one point, however, in these recommendations to which the Government of Bengal take strong exception, and that is the recommendation in paragraph 190 in respect of the Central Intelligence Department. They consider that it is impracticable for the work of that department in the provinces to be conducted by means other than those of the regular police administration, and that it will be impossible for the Governor-General in Council to determine the conditions of the organization of the Criminal Intelligence Department in the provinces.

40. On the subject of the Commission's proposals regarding the Army the Government of Bengal do not propose to offer any detailed remarks. Their general conclusion is that the reasons advanced for making the changes proposed in the Report are insufficient and that it is most desirable that the existing arrangements should not be altered at present. The proposed changes will not remove

the legitimate agitation that is conducted in connection with the Army in India. There is undoubtedly a very general desire that the process of Indianisation in the Army should be hastened and everything possible should be done to attain this end. In the view of the Government of Bengal the number of army schools and army training institutions in India should be increased and definite steps should be taken to provide a much larger number of recruits than at present for the manning of the superior ranks in the Army; and development on these lines is much more desirable than the constitutional changes advocated by the Simon Commission. The Government of Bengal are in full agreement with the suggestion that the Imperial Government should contribute to the cost of the Army in India in respect of matters affecting Imperial interests, and recommend that if such an agreement is arrived at it should not be made in a niggardly fashion. They consider too that the present system under which the Army Department contracts to carry on within a fixed sum each year should be continued so that as many causes of friction as possible may be removed. There is one suggestion, however, to which they take the strongest objection, namely, that every demand for Imperial troops for the purpose of quelling disturbances and maintaining order should be put forward by the express authority of the Governor of the province himself. In their opinion, if there is a unitary Government and joint responsibility, it is unwise to transfer the responsibility for the use of troops from the Ministry to the Governor in person.

41. On the question of the separation of Burma the Government of Bengal desire to express no opinion, although it is obvious that Bengal like the rest of India will be intimately concerned in the financial questions that will arise for settlement if separation is effected. Nor do they desire to express any opinion about the questions regarding Indian States.

42. The proposals regarding the Services they consider to be specially important, for they feel that at times it is not sufficiently recognized that the steady progress of India towards the ideal set forth in the preamble to the Government of India Act depends very largely on the assistance rendered by expert and contented Services. It would be dangerous, if it is still desired to recruit British officers, to ignore the fact that there is an increasing sense of un-

uneasiness among the British members of the Services. This is perhaps due less to the nature of the recommendations of the Commission, which at least on paper maintain the existing protection, than to a growing apprehension about the intentions of the British Government and the Government of India. This uneasiness will react rapidly on recruitment, and if the recruitment of British officers is to continue, effective guarantees of the rights and conditions of Service must be devised. The Government of Bengal consider it essential, therefore, that the utmost care should be taken in introducing any further reforms to protect the present members of the Services in the enjoyment of the rights to which they are at present entitled and to do nothing which will in any way check regular recruitment for these Services.

43. As regards the Security Services the Government of Bengal are agreed that all-India recruitment should continue and that the recruitment should be through the Secretary of State who should guarantee the conditions of service. These conditions should not be open to alteration without the assent of the Secretary of State in Council. As the Secretary of State is the authority responsible for recruitment he should have the power to require provinces to employ members of the all-India Services in such number and in such appointments as he may think fit. The present members of these Services should retain their existing rights and privileges and the conditions of service for new entrants should be the same as for the present members except for the right to retire on proportionate pension. But Government realise that the terms of recruitment may require to be altered as time goes on if recruitment on these terms does not provide a sufficient supply of officers of the right type. The terms of service will be largely conditioned by the interaction of supply and demand.

44. On the question of increasing the rate of Indianisation in these Services they are agreed that the present rate should be continued and that acceleration of Indianisation is not desirable, especially as it is understood that the rate of Indianisation has been much more rapid than was anticipated. Indeed the Mahomedan members would like it retarded on the ground that the present rate is working unfairly to Mahomedans. They urge that if however the present rate is maintained, then Indianisation

should be carried out gradually, and not to the detriment of any particular community, but with due regard to the securing of the widest possible confidence in the administration.

45. On the question of the recruitment for the non-security services there is no agreement. One member is of the opinion that recruitment for non-security services must be made by the Provincial Government, another member thinks that for political reasons it is not possible to press for all-India recruitment for any of these services, and a third points out that so far experience in Bengal has not shown that there is any likelihood of the recruitment on a provincial basis of officers from abroad having any chance of success. The Moslem members would stress the point that there should be proportionate and adequate representation of the different communities in the public services.

46. The Government of Bengal would draw special attention to the recommendation in paragraph 332 of the Simon Commission Report supporting the recommendation of the Lee Commission regarding the adequate provision for safeguarding service pensions, and urge the importance of carrying this recommendation into effect should the need for it ever arise. For they feel that there is increasing anxiety among some members of the services regarding the security of their pensions and an apprehension that the time may come when they will find that their interests have been sacrificed for political ends. The Government of Bengal do not consider that there is any substantial basis for this apprehension, but at the same time they cannot deny that it exists and they consider that it would conduce greatly to the feeling of security among European members of the Services and to the chance of getting a steady stream of recruitment, were a solemn undertaking given that their rights to pension shall be adequately safeguarded, or if arrangements were made to hold the funds required for the payment of their pensions and provident funds in Great Britain.

47. They would also draw attention to the recommendation of the Commission regarding the need for making adequate arrangements for the medical treatment of European officers. This affects not only officers at present serving but is important as affecting recruitment in the future. For it will be impossible to obtain European

officers for this country if they cannot be assured of treatment for themselves and their families by European doctors of an adequate standing.

48. They support the recommendation of the Commission that an additional pension should be given to Governors of Provinces who belong to the Services. They also support the recommendation that an officer who has been appointed a Minister and has been turned out of office should be entitled to some increment to his pension if he is not reappointed or posted to some other post on active service. They also with one dissentient support the recommendations regarding the need for a Provincial Public Service Commission and the majority agree that the members thereof should be appointed by the Governor. They are also in agreement with the remarks regarding the recruitment of Anglo-Indians. Failure to obtain recruits from this community through the ordinary channels of recruitment is leading to difficulties in Bengal.

49. As regards the recommendations of the Commission in connection with the High Courts, it is agreed that there is no objection to the High Court of Bengal remaining under the Government of India, provided all other High Courts are placed in the same position and the Central Government meets the charges for it, after making the necessary adjustments suggested by the Commission. The present anomalous position in which the Government of India control the High Court while the Government of Bengal pay for it should cease. If other High Courts remain under the local Governments concerned, then the High Court of Calcutta should be placed under the Government of Bengal.

50. Whatever be the final decision about the control of the High Court it is desirable that the present arrangement under which the selection of persons to be appointed to the Provincial Judicial Service rests by law in the hands of the High Court should be changed. All appointments to Provincial Services should be made by the local Government, though in the case of the Judicial Service, the advice of the High Court should be taken before the final selection is made. The present system of making appointments to the High Court on the recommendation of the Chief Justice should also be modified, the appointments should be made on the recommendation of the Governor after consulting the Chief Justice.

51. The Government of Bengal have no detailed criticisms to make regarding the recommendations of the Commission on the subject of the relations between the Home and the Indian Governments. They agree that the Secretary of State's Council should continue to exist and that it should perform the functions mentioned by the Simon Commission. They approve of the conditions of appointment proposed by the Commission, *viz.*, that the interval between leaving India and the appointment to the Council should not exceed one year and that no member appointed on account of his Indian experience should be eligible for re-appointment. They further recommend that more use should be made by the Secretary of State of his Council for the purpose of advice on all matters affecting India. They consider that it is unsound that important decisions regarding the governance of India should be taken by the Secretary of State without any previous discussion with his Council. On the constitutional question whether there should be delegation of powers by the Secretary of State by convention as in the case of the fiscal convention, the Government of Bengal are in agreement with the recommendation of the Simon Commission.

52. In conclusion, I am to say that the general position of the Government of Bengal is that the Simon Commission Report sets forth a logical scheme of advance for India towards the goal laid down in the preamble to the Government of India Act, which they are prepared to accept as a whole, subject to the recommendations they have made on matters of detail, and to the general objections raised by one member in the note which will be found in Appendix A. But they desire to make it plain that in their opinion no advance can safely be made beyond the recommendations of the Commission. More especially they desire to emphasize their opinion that no further advance should be made in the centre until it is certain that the Provincial Governments are exercising their increased powers and responsibilities with due regard to the interests of all classes and communities and until experience in the provinces has shown that risks can be taken at the centre with a reasonable chance of safety.

53. With reference to your request for an estimate of the reception which the recommendations of the Commission have received in the province I am to say that the reception accorded to the first volume of the Report of the Indian

Statutory Commission by European papers and by the *Bengalee* was favourable but that the nationalist Hindu papers condemned it, the *Basumati* describing it as "crude and barefaced" propagandist literature. Apart from some favourable comments in the European papers and the *Bengalee*, the second volume of the Commission's Report was received with a chorus of disapproval. This was only to be expected on the part of the nationalist press, but there is also a strong Muhammadan feeling in Bengal that the proposals for Muhammadan representation in this province are unfair, that the Muhammadan majority in Bengal is being sacrificed to Muhammadan minorities in other provinces, and that Muhammadan interests in the proposed Federal Assembly will be seriously affected. The Moslem press generally, which was at first more favourable than the Hindu press, has lately changed its view for the worse and now condemns the Report in very much the same language as that used in the Hindu press. At the same time there can be no doubt that the Report has aroused much interest, and has probably received more serious attention than the superficial comments upon it in the press would appear to indicate. Not only has there been a large demand for the Report itself, but criticisms in the press have been frequent and not least in those papers which pretend that the report is worthless, and there are indications that the previous wholesale condemnation of the Report is giving place to detailed criticism of and opposition to some of the proposals contained in it.

54. I am to add that Sir William Layton's financial proposals will be dealt with in a separate letter.

APPENDIX A.

One member of Government is of opinion that if the recommendations of the majority of the Government are accepted it will inevitably lead to a rapid disintegration of the structure of society in India—including British and Indian. On the scheme accepted by the majority racial bitterness will increase intensely. The elections on the scheme proposed will be fought on the racial issue, sentiment and the activities of the youth of the country will play an important part. On that scheme, in his opinion, the party of extremism will sweep the polls and inoculate the voters and others with the virus of hatred towards England. Those Indians who believe in working out India's political evolution by co-operating with England will be hounded out of public life. Under such conditions it will be impossible to attain the ideal of responsible

Government in India as an integral part of the British Empire, for it is difficult to conceive of a self-governing India to form an integral part of the Empire with bitterness and hatred towards its head and distrust and suspicion which that head as a consequence will naturally harbour towards such an important component part of the Empire as India. Bitterness and hostility to England will have other very serious consequences. The volume of trade between India and England is very considerable. Experience shows that bitterness and hostility intensify the boycott movement. Intensity of the boycott movement not only affects purchasing of British goods but it has the effect of decreasing trade all round, for one indirect effect of the boycott movement is to make less money available for circulation. The tense atmosphere which prevails at times of acute agitation also unsettles the minds of traders and commercial men and they naturally hold back from business ventures. The present structure of society in India is based on co-operation and good-will between England and India. The activities to which reference has been made will, in his opinion, inevitably lead to strangulation of the economic life of the people. Such strangulation will increase distress in all classes and will very prejudicially affect receipts of all governments, provincial and central. As already mentioned, if the recommendations of the majority be accepted, then those who are intensely anti-British and are for severing British connection will be returned to provincial legislatures in even larger numbers. If their leaders accept office then we shall have in the provincial Governments a state of things similar, but on a much extended and intensified scale, to what we have at the present moment in the Corporation of Calcutta. If these leaders do not accept office then they will be in a position to make it impossible for the constitution to function. Apart from other reasons the different groups of disorganised and disheartened co-operators whose number will be small and who will not be knit by a common party bond will not even be an effective minority and a number of them will go against the ministers. From past experience the conclusion about wrecking the constitution by playing upon personal jealousies is fully justified. One important safeguard for maintaining the structure of society in India and for preventing the untoward consequences referred to above will be, to formulate a constitution, particularly in the provinces, under which those who are willing to work for the ideal of responsible government as an integral part of the British Empire may be returned in such numbers that at times they will be in a majority and at other times will be an effective minority. In the constitution to be framed those who are for severing British connection should have a similar position, that is to say, they might at times be in a majority and at other times in an effective minority. The object the member has in view will be defeated if the framing of the constitution be such that those who are willing to work for the attainment of responsible government as an integral part of the British Empire will always be in a perpetual majority for such a position will inevitably tend to a sense of hopelessness and all that follows from hopelessness in the party of their opponent. That

object will be more dangerously defeated if those who are in favour of cutting adrift from England and for increasing the bitterness and hostility against England be in a perpetual majority as under the recommendations they are likely to be. For such a state of things will also mean utter hopelessness in their opponent. The constitution should be such that both parties will have a chance of being in power or being in effective opposition. If the idea of the member be accepted then he thinks it will be reasonably possible to prepare the country to accept the view that India's best interest lies in working for political evolution by co-operation with England. In order to achieve this object it will be a mistake to depend only on one group such as Muhammadans, or landlords or Liberals. He is of opinion that experience shows that personal jealousies have played an important part in the past and is likely to operate in future at any rate for the next 10 or 15 years (the one-sided anti-British propaganda has been going on for over 12 years in a very acute form and in a less acute form for over 25 years). The constitution therefore should be framed in such a way that a combination of a fair section of the Muhammadans, the landlords and the Liberals will give the party of co-operators at times a majority and at other times an effective minority. It will be necessary to leave more than a fair margin for defection because of personal jealousies. Such a constitution will inevitably strengthen the hands of the Governor and inspire confidence in the minds of the members of the security services than mere rules can ever do. The necessary safeguard will not be forthcoming by merely confining it to reserved powers of Governors and the maintenance of the security services. If we were to depend merely on these two safeguards and if the bitter agitation continues, as it will, then the present structure of the British Indian administration will have to be changed and it will be necessary to spend much larger sums on police and army than is done at the present moment. With decreasing income due to agitation and with increasing expenditure the safeguards suggested will prove useless and illusory. The member is of opinion that it would have sufficed if the principles suggested by him were accepted leaving it to the franchise committee to work out details. It was however pointed out to him that it would be desirable to give more definiteness to his ideas. He therefore puts forward certain suggestions with regard to the distribution of seats and the rules of franchise more by way of illustration than by way of definite recommendation. He is of opinion that the principles embodied in his note should be accepted and the illustrative suggestions put forward should be treated as nothing more than illustrative suggestions and that it should be left to the proposed franchise committee to work out the details after acceptance of the principles. The suggestions are:—

- (1) The period for constitutional revision by means of amendment by constitutional resolution should be extended to 15 years (instead of 10 years). This will ensure experience of 3 councils instead of 2.
- (2) During these 15 years the existing rules of franchise should stand. If, however, those who are weighed more by

theories than by realities insist upon broadening of the franchise such broadening should not be by more than double and not treble as suggested in paragraph 106 of the Simon Commission's Report.

- (3) Over and above the statutory nominations for Indian Christians, labour, etc., the Governor should have power to nominate up to 8 to 10 per cent. of the total number of seats. This will enable the Governor to introduce a stabilising influence whenever it is necessary to do so.
- (4) Of the total number of Muhammadan seats that may be decided, say 25 to 30 per cent. should be returned by a separate class of voters with higher property qualification, *e.g.*, those paying Rs. 10 as cess or Rs. 50 as land revenue or rent. The rest should be by the electors with the ordinary franchise qualification that may be decided. Unless this suggestion be accepted he is apprehensive that the class of Muhammadans who will be returned to the Legislative Council will have a less stabilising influence than those who now come by the door of election. If, however, the Muhammadan representatives do not like this suggestion the member feels that he should not press for it, but in that case he will have to ask for more non-Muhammadan seats for purposes of stabilising, leaving the percentage of communal representation intact. He would, however, point out that although personal differences and jealousies played an important part amongst all sections of co-operators, the part played by the Muhammadan section was very much worse. The number of co-operating Muhammadans who supported ministers was never more than one-third of the total number of co-operators of that community. In the case of the co-operating group of Hindus the supporters of the ministers was not less than two-thirds.
- (5) Of the total number of seats that may be allotted to the non-Muhammadans from general constituencies (excluding backward classes) say 25 to 30 per cent. should be reserved for constituencies with a higher franchise. As the non-Muhammadans generally speaking are better off than the Muhammadans he would make the property qualification higher, *e.g.*, payment of say Rs. 15 as cess or payment of Rs. 75 as land revenue or rent.
- (6) $7\frac{1}{2}$ per cent. of the seats should be reserved for the special constituency of landholders. The present voting qualification should be reduced.
- (7) Of the backward classes he would not give any special representation to the Mahisyas and the Ugrakshatriyas. His reason for this suggestion is that they can well look after themselves and that it is politically inexpedient to grant special representation to these two classes. Some

special facilities are necessary for the Namasudras and Rajbansis. He agrees that the total number of backward classes' seats should be reduced to 10. He also agrees that it may be difficult to get many more suitable candidates from the backward classes.

- (8) The representation of Indian commerce and industry should be continued. In Bengal, however, the Bengali element in Indian commerce and industry is getting smaller and smaller. In the present Bengal Legislative Council with a total non-official number of 114, we have 4 seats reserved for Indian mercantile and trading interest, *viz.*, 2 for the Bengal National Chamber of Commerce, 1 for the Bengal Marwari Association and 1 for the Bengal Mahajan Sabha. He would retain these seats. If these seats are retained then on the percentage as recommended by the Simon Commission the total number of seats will be about 9 or 10. The remaining 5 or 6 seats he would allot to income-tax payers who are Indians by nationality and who pay an income-tax on an assessed income of say not less than twelve thousand rupees per annum. For political and other reasons he is opposed to increasing the numerical representation of Marwari trading interest. Increasing of seats to the Marwari trading interest will add to strengthening of the forces which tend to disruption of society. Further he does not see why extra consideration should be shown to those who are not natives of the province. On the other hand allocation of 5 or 6 seats to income-tax payers will introduce a stabilising influence. His reasons against extension of seats in favour of bodies representing trade and commerce both amongst Bengalis and Marwaris and suggesting an income-tax election are mainly political. Those who are in trade and commerce (both Bengalis and Marwaris) are becoming increasingly extremist and are for their own peculiar reasons becoming supporters of boycott. Income-tax payers will include a large number of householders who pay income-tax on their personal income and property. This class is more stable.

The member has no objection to automatically dropping the provisions embodied in paragraphs 3, 4 and 5 of his suggestions after a period of 15 years, leaving it open to the framers of the constitutional resolution either to re-introduce these provisions or to modify them in any way without the necessity of support by two-thirds of the voters of the legislature, but his object is that during the initial period of the working of the new constitution it is important to introduce more stabilising influences. He is, however, of opinion that it will be safer to retain the two-thirds rule even with regard to these provisions. From calculations that he has made he is of opinion that the distribution of seats and the rules of franchise on the lines framed by him will in all probability

ensure what he has in view, namely, that those who are willing to work for the ideal of responsible government as an integral part of the British Empire may be returned in such numbers that after allowing for defection on personal questions, at times they will be in a majority and at other times be an effective minority.

With regard to the provincial executive he desires to suggest the following. As soon as the Cabinet has been formed a Muhammadan member and a Hindu member should be placed jointly in charge of the departments of Police and Appointments. The procedure will be that where both members agree, subject to the reserved power of the Governor and of the over-ruling power of the Cabinet as a whole, the order will be final, but where the two members differ the matter will be placed before the Governor whose opinion will be final and there will be no overriding power of the Cabinet. If, however, the Cabinet decides upon placing either of these portfolios in charge of a British elected member, then the special provision suggested above need not apply.

(2) The ministers instead of being jointly responsible to the Lower House only should be ultimately responsible to a joint session of both the Houses as suggested by the memorandum of the Government of Bengal. This will ensure a better possibility of keeping in office ministers who may desire to work the constitution with the ideal of responsible government as an integral part of the British Empire.

(3) It has been pointed out that the difficulty of the exercise of the Governor's reserved power will not be so much with regard to their exercising when real emergency occurs, but the greater difficulty will be in day to day administration. Responsibility to the joint session of both the Houses will, therefore, meet some of the objections referred to in paragraph 6 of the letter to which this is appended.

(4) There is a serious danger of a majority in the Legislative Council refusing to work the constitution. If two ministries are successively defeated and no ministers are available with a majority for working the constitution the Governor should have not only the power of dissolving one or both the Houses, but he should have the power of suspending the Lower House for a limited period of say one year and carry on with ministers appointed from the Upper House for that period. The exercise of such a power, however, will be subject to the supervision of the Governor-General and within one year a fresh election will have to be held.

With regard to the Central Government the member is of opinion that if the scheme of the Simon Commission be adopted, both in the provinces and in the centre, then the position of the executive in the centre will be worse than intolerable. In the provinces the legislatures are likely to be dominated by anti-British members and the ministers in the provinces will either have to submit to their domination or the constitution will break down. In either case a situation will arise in the province which will inevitably lead to physical conflicts between the people and the authorities and the repercussions on the discharge of the responsibi-

lities of the central executive will be very serious. The structure of society as also of trade and commerce will be very seriously affected. The member is further of opinion that the suggestions contained in paragraph 27 of the letter consist more or less of general observations and the position of the executive Government in the centre, even if the suggestions of the majority be accepted, will also be impossible. The member, however, finds it difficult to make any constructive contribution on this point, so long as the scheme for distribution of seats and the rules of franchise in the provinces are not finally determined. There is, however, one constructive suggestion which he desires to put forward and which should come into operation in any view of the case. That constructive suggestion is that the administration of the Army should be separated from the administration of other departments and should be placed under the charge of a separate Executive Council. This Executive Council for administering the Army will have the Governor-General as its head, the Commander-in-chief as Vice-President of the Council, one or two civilian members appointed by the Secretary of State for India to represent imperial defence interests and one or two members to be selected on the recommendation of the Government of India. The separation of the army administration from administration of the civil departments will take away a good deal of suspicion from Indian nationalists who desire to provide immediate responsibility in the Central Government.

Anti-British propaganda has been going on in India from the days of the Mahratta revival and of the partition agitation in Bengal. From the days of the agitation over the Rowlatt Bill and the Jalianwalla Bag incident, such propaganda has been very vigorous and virulent. There has been very little of counter-propaganda. Elections on a franchise very much wider than those in vogue under Morley-Minto scheme had one inevitable result, *viz.*, appeal to the racial issue with the help of the youth of the country. This helped a good many candidates to win their election. This also led to widespread anti-British feeling. The Indian-owned newspapers, whether edited in English or in vernacular, by Hindus or Muhammadans, added considerably to this anti-British feeling. Appeal to Indians on the sentiment of India for Indians must prove effective. Sentiment always plays an important part in politics and a sentiment like this it will be difficult to ignore. The counter-appeal to reason about co-operation with the British divorced from sentiment and lacking in the support of the youth of the country was always ineffective. During the last 10 years racial bitterness has increased with an intensity unknown previously. If the franchise be further broadened this member is definitely of opinion that racial bitterness will increase even more largely in volume and strength. One favourite game of those who believe in creating this racial cleavage is boycott of British goods. In an earlier part of this note the member has pointed out some of the dangers resulting from this movement. He desires to draw particular attention to this danger. He also considers it necessary to point out that the constitution of a country like India racially different from England must be framed after

taking due note of the racial difference and a blind copy of what is satisfactory in self-governing dominions like Australia, Canada or South Africa or what is satisfactory in England will lead to untoward results. In these countries there is no racial or communal issue in elections. Further the colonies are sparsely populated and want development. The position with regard to election there is very different from that in India.

Under the Morley-Minto constitution there were altogether about 8,000 voters in Bengal. Out of these 6,000 were direct voters and 2,000 represented electoral colleges. Under the present Government of India Act there are over 11 lakhs of voters. In elections which took place under the Morley-Minto constitution persons who based their politics on reason as against mere sentiment could successfully contest the seats. So far as the Hindus are concerned, under the existing constitution in the general constituencies less than 10 per cent. were successful in the last elections. The position was better with regard to the seats reserved for the landholders and trade and commerce. The reason for this want of success in general constituencies was appeal to sentiment and the efforts of the youthful supporters of extremism. If the franchise be extended in the manner proposed and if the landholders' constituency be abolished, then so far as the Hindus are concerned, co-operators will have absolutely no chance. Those who think that with the help of the Muhammadans and of the Europeans the constitution can be successfully run, labour, in his opinion, under a great mistake. In the first place, assuming that the constitution can be run in the manner indicated, there will be a sense of helplessness and hopelessness in the Hindu community. This must have its repercussions in many directions. It will inevitably lead to physical conflicts. It will mean ruin of trade and commerce. It will also mean increasing poverty to the Muhammadans who are already poor. I do not think, however, that the assumption is right that the Muhammadans who would be returned to the Legislative Council on an extended franchise will not be anti-British. It is true that the Muhammadan advisers of Government have supported extension of franchise amongst Muhammadans. If analysed, their reason for such support is that they are anxious to secure thereby a larger number of seats for Muhammadans. There are already the beginnings of a movement, not very serious at the present moment, amongst the younger section of the Muhammadans which are anti-British and decidedly antagonistic to the opinion of the older and soberer section of Muhammadans. With extension of franchise young pleaders, journalists and men with very little stake amongst the Muhammadan community will have a much better chance of being returned, particularly as they are likely to be supplied with funds by the Congress workers and others. It will then be a question as to which section can harness the Maulavis and Mollahs and the young men on their side. This member is almost certain that older and the soberer Muhammadans will have a very difficult time, and to some extent the experience through which the soberer and older sections of the Hindus went a few years ago will be repeated in the

case of the Muhammadans. Assuming, however, that the older and the soberer Muhammadans will be able to be returned in fairly large numbers the inevitable personal issues will be there and for practical purposes their return will be of little use for smooth running of the constitution. Furthermore, statesmanship demands that the supporters of ministers should be recruited from the two communities and not from one community only. Apart from propaganda for elections where the older and the soberer Muhammadans have been fairly successful against pro-Congress Muhammadans, the attitude of the Muhammadan community in Bengal on the question of boycott of British goods as apart from the civil disobedience movement has been on the whole almost as unsatisfactory as that of the Hindus. The cigarette trade has been largely in the hands of the Muhammadans. We know the position with regard to the cigarette trade. Cigarettes has been boycotted both by Hindus and Muhammadans. A quiet enquiry into the bazar will satisfy any one that the Muhammadan traders have as much sympathy with the boycott as the Hindu traders, although both the Hindu and the Muhammadan traders suffer from boycott. It is true that in the civil disobedience movement, at any rate in Bengal, a section of the Muhammadans have passed resolutions against the movement, but beyond passing of resolutions they, in most cases, have done very little effective, but wherever anything effective was attempted it has inevitably led to physical conflicts between Hindus and Muhammadans and to the undesirable economic issue, thereby adding to the difficulties of the administrative officers, already harassed by the civil disobedience movement.

If we look to the political history of England where responsible Government has perhaps succeeded better than even in most western countries we find that there has been a gradual evolution in extension of franchise and power to the less favoured sections of the community. Before the Reforms Act of 1832 power was practically centered in the aristocracy and squirearchy. After 1832 the upper middle class men were taken in and power was centered in a combination of the older element and of the upper middle classes. After Lord Disraeli's Act there was a further extension. Skipping over the intermediate constitution at legislation we find that even after the Act of 1918, £10 annual value is the qualifying franchise for males, whereas in India in the case of a tenure-holder Rs. 16 annual rent is the qualifying franchise. If England with all its experience of responsible government, with all its advantages in education particularly after the compulsory Education Act passed 50 years ago, still retains £10 annual value as the qualifying franchise for the male voters, it will be a great mistake to lower the franchise even more than what it is under the present Government of India Act. The member, however, is fully alive to the demand for lowering of the franchise. The demand is based on a pathetic faith of blindly copying of western institutions. If the authorities were to accept the demand put forward by the nationalists, then why accept it in one respect and reject it in others? For example, responsibility in the centre is the demand of the Hindus and the Muhammadans alike. If all the demands

are not accepted it is because of reasons of safety, and if reasons of safety operate, as it should, then let it operate with due regard to all realities.

There is one important question which must have great weight with the security services and contentment of the security services is so important in maintaining stability in the structure of society. The representatives of the services are very keen on retaining an official minister. After giving the matter very anxious consideration the member is of opinion that such retention will merely add fuel to the fire and will not be of any use. There may be one way of gaining the object which the representatives of the security services have in view. If it be provided that European trade and commerce should be allowed to elect members who do not belong either to the Chamber of Commerce or the Trades Association but who are British by nationality, then it will be quite possible for these interests to elect one or more officials who have just retired on pension and as European trade and commerce will represent an important section of the House the inclusion of a retired official to the electorate may serve the purpose which the representatives of the security services have in view. The member commends this suggestion to the careful consideration of these representatives. This suggestion if accepted will not have the same political objection as the inclusion of an official minister as such. Failing this the member suggests that the salary and the emolument of the Chief Secretary should be improved and he should be the official adviser of the Governor.

There are a number of other points into which the member refrains from entering as he is of opinion that unless a decision on some of the points on which he has laid great stress in this not be arrived at, it will not serve any useful purpose to deal with those points.

In this note he refrains from stating his views about the communal question and the all-important question of provincial finance. He proposes to deal with these two topics separately.

APPENDIX B.

Note by the Muhammadan members of Government, dated 15th July 1930, on Moslem representation in the Bengal Legislative Council in proportion to ratio of population.

On page 71 of volume II of the Report, the Commission have referred to the Lucknow Pact. They say, "Our own opinion is that in view of the existing position and of the weakness of the Moslem minority in six out of the eight provinces the present scale of weightage in favour of Muhammadans in those provinces might properly be retained But a claim has been put forward for a guarantee of Muhammadan representation which goes further than this. This claim goes to the length of seeking to preserve the full security for representation now provided for Moslems in these six provinces and at the same time to enlarge in

Bengal and in the Punjab the present proportion of seats secured to the community by separate electorates to figures proportionate to their ratio of population..... We cannot go so far. The continuance of the present scale of weightage in the six provinces would not, in the absence of a new general agreement between the communities, equitably be combined with so great a departure from the existing allocation in Bengal and the Punjab ”.

We are afraid this reasoning will not bear scrutiny for a moment for—

- (a) In the first place their argument militates against their fundamental ideal of a Federal Government. The conception of Federal States presupposes the inter-independence of the constituent states and therefore the plea of weightage elsewhere does not apply to Bengal and the Punjab. In all federal systems of Government, where there is a question of majorities and minorities, certain amount of weightage is always given to the minorities where they exist. But this weightage is never allowed to operate in reducing any actual majority anywhere into a minority.

The Commission further observes that “ it would be unfair that Muhammadans should retain the very considerable weightage they now enjoy in the six provinces and that there should at the same time be imposed a definite Moslem majority in the Punjab and Bengal ”.

The Commission seems to forget that the weightage which Moslems enjoy in those six provinces is due to the very essence of democracy. “ It is an essential part of democracy ”, says John Stuart Mill, “ that minorities should be adequately represented; nothing but a false show of democracy is possible without it ”. Thus the weightage in the other provinces can never be taken to counter-balance any actualities elsewhere. There is no question of “ imposing ” a definite majority in the Punjab and Bengal. The definite majority is there already. On the other hand, it is the Commission who are attempting to reduce an actual majority into a perpetual minority, which is against all principles of democratic form of government.

Even the late Mr. C. R. Das in the now famous Bengal Pact, agreed to give major community 60 per cent. representation and minor community 40 per cent. representation on all self-governing bodies in each district of Bengal, irrespective of Hindu or Moslem and their actual census strength.

- (b) The Commission talk of a “ new general agreement between the communities ”, and it seems that if such an agreement were concluded and it gave representation according to population to the Moslems in Bengal and the Punjab, the Commission would then be glad to ratify

the same, forgetting perhaps that such an agreement between the two communities is never likely to materialise. Their two trips to India ought to have convinced them that the Hindu community would never concede such representation to Bengal and the Punjab Moslems *suo motu*.

Representation of Bengal and Punjab Moslems in proportion to their population seemed to the Commission to be a "great departure from the existing allocation", whereas in reality it is nothing of the kind. It is a claim based on equity, as we shall presently show.

- (c) Let us trace the history of Moslem representation as will be found from Government of India's Memorandum on "Communal representation in legislatures and local bodies. (E.-Ind.-209)". This Memorandum from which we are quoting below was prepared by the Government of India for the Simon Commission.

The question of Moslem representation was first mooted during the viceroyalty of Lord Minto. A deputation of leading Moslems headed by His Highness the Aga Khan waited upon His Excellency Lord Minto on the 1st of October 1906 and presented an address. In his reply His Excellency Lord Minto declared as follows:—

(Ref. E.-Ind.-209, page 11.) "The pith of your address, as I understand it, is a claim that under any system of representation, whether it affects a municipality or a district board or a legislative council, in which it is proposed to introduce or increase an electoral organisation, the Moslem community should be represented as a community. You point out that in many cases electoral bodies as now constituted cannot be expected to return a Moslem candidate, and that if by chance they did so, it could only be at the sacrifice of such a candidate's views to those of a majority opposed to his community whom he would in no way represent; and you justly claim that your position should be estimated *not only on your numerical strength but in respect to the political importance of your community and the service it has rendered to the Empire. I am entirely in accord with you.* Please do not misunderstand me. I make no attempt to indicate by what means the representation of communities can be obtained, but I am as firmly convinced as I believe you to be that any electoral representation in India would be doomed to mischievous failure which aimed at granting a personal enfranchisement *regardless of the beliefs and traditions of the communities composing the population of this continent.*"

(Ref. E.-Ind.-209, page 12.) "These proposals were supported by the Government of India and communicated to the Secretary of State, who accepted the principle that the Moslem community was entitled to a special representa-

tion on the Governor-General's and local legislative councils commensurate with its numbers and political and historical importance."

This shows that the Government of India declared that the Moslem community were entitled to special representation on the local legislative councils, but that representation was to be commensurate with *not only its number but also its political and historical importance*. Simon Commission now declines to give them representation commensurate even with their numbers, not to speak of their political and historical importance.

The Government of India Memorandum further goes on to say that "These proposals were supported by the Government of India and communicated to the Secretary of State, who accepted the principle that the Moslem community was entitled to a special representation on the Governor-General's and local legislative councils, *commensurate with its numbers and political and historical importance*".

The Lucknow Pact agreed to the following proportion of Moslem representation in the legislative councils:—

Punjab—50 per cent. of the elected Indian members.

United Provinces—30 per cent. ditto.

Bengal—40 per cent. ditto.

Bihar and Orissa—25 per cent. ditto.

Central Provinces—15 per cent. ditto.

Madras—15 per cent. ditto.

Bombay—33½ per cent. ditto.

The percentage of Moslem seats to the Moslem population, taking figures from the census of 1911, worked out as follows:—

Province.	Moslem Percentage		
	percentage of Moslem of population.	Percentage of Moslem seats proposed.	Percentage (2) of (1).
	1	2	3
Bengal	52.6	40	76
Bihar and Orissa	10.5	25	238
Bombay	20.4	33.3	163
Central Provinces	4.3	15	349
Madras	6.5	15	231
Punjab	54.8	50	91
United Provinces	14.0	50	214

The result is (*vide* E.-Ind., page 21) "that while Bengal Moslems have obtained only three-quarters and the Punjab nine-tenths of what they would receive upon population basis, the Moslems of other provinces

received extremely liberal representation. These concessions indicate the extent to which Congress leaders were prepared to go in order to secure the adherence of Moslems to their reforms proposals”.

(*Ref. E.-Ind.-209, page 28.*) “The Government of India drew attention to the effect of the Congress League agreement (Lucknow Pact) in giving the Bengal and Punjab Moslems less than what they would receive upon a population basis, while the Moslems of other provinces received, some of them, extravagantly good terms. The Government of India were of opinion that the proportions laid down in the Lucknow Pact could not be taken to represent the right relation either between Moslems in different provinces or between Moslems and the rest of the communities..... The Government of India accepted the conclusions of the Committee in favour of the proportions agreed upon in the Lucknow Pact with *one exception*. The Government of India felt that the Moslem representation *proposed for Bengal was manifestly insufficient*; they doubted whether the *claims of the Moslem population of Eastern Bengal had been adequately* pressed when the Congress and the League compact was in the making.”

We have thus shown above what the views of the Government of India were, at the time when the Franchise Committee perpetrated a great injustice on the Bengal and Punjab Moslems.

Now is this injustice going to be perpetuated? The entire Moslem community from the Himalayas to Cape Comorin feel very strongly on this point as will be evident from the resolution of the All-India Moslem Conference held at Delhi on the 1st January 1929 where it states (*vide* page 85 of Report): “It is essential that representation of Mussalmans in the various legislatures and other statutory self-governing bodies should be based on a plan whereby the Moslem majority in those provinces where Mussalmans constitute a majority of population shall in no way be affected and in the provinces in which Mussalmans constitute a minority, they shall have a representation in no case less than that enjoyed by them under the existing law.”

The resolution passed by the Working Committee of the All-Parties Moslem Conference held at Simla on the 5th July last also emphasized the Moslem demand for representation in Bengal and the Punjab Council on the basis of population. All Moslem leaders who have criticised the Simon Report have equally stressed this point.

Now with regard to the manner and form of the Moslem electorates of 1909 three points that deserve to be borne in mind are—

(1) that the Moslem electorates were super-imposed upon the general electorates;

- (2) that not only the basis of population, but also the political importance of the Moslem community, as distinct from its numerical strength, was accepted by Lord Morley as a basis for special representation; and
- (3) that the franchise in the Moslem constituencies, which elected direct to the councils, was wholly different from the franchise qualifications in the general constituencies in which the district boards and municipalities intervened between the primary voters and their representatives in the council.

Later on, at the time of the Montford Reforms, when the Franchise Committee based their recommendations on the Lucknow Pact, the Government of India strongly protested as has been described. In spite, however, of the Government of India's protest, effect was given to the Lucknow Pact during the last Montford Reforms, the result of which in Bengal was even more disastrous. The present council is composed as follows—

- (a) 39 are returned from Moslem constituencies.
- (b) 46 are returned from Hindu constituencies.
- (c) 5 are returned from the Landholders' constituencies.
- (d) 2 are returned from two Universities' constituencies.
- (e) 4 are returned from Bengal National Chamber of Commerce, the Marwari Association and the Bengal Mahajan Sabha.
- (f) 16 non-official Europeans.
- (g) 2 Anglo-Indians.
- (h) 26 nominated officials.

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This means that whereas there are 39 Moslems, there are $46 + 5 + 2 + 4$, i.e., 57 Hindus, as Moslems can never hope to get returned from the Landholders' constituencies, nor from the Bengal National Chamber of Commerce, the Marwari Association and the Mahajan Sabha, nor more than one from the two Universities. Thus, in a Council of 140, as at present constituted, there must always be 39, or at the most 40, Moslems, against 56 to 57 Hindus.

Some objection seems to have been raised against the Commission's recommendation of giving the depressed classes something like 18 per cent. representation; and this is sought to be lowered. There seems to be little justifications in this objection, as will be gleaned from the fact that, taking the census of 1921, the caste Hindus, i.e., (a) Brahmin, (b) Kayastha, (c) Baidya, (d) Rajput, (e) Buddhist and Jain, taken together, come to 3,105,000 roughly, whereas the depressed classes and untouchables come to 17,400,000.

Even if the 18 per cent. as recommended by the Simon Commission is lowered, and a smaller proportion of seats assigned to the depressed classes, that is no argument against Moslem representation as the Moslem population is 25,200,000. Besides, although the lower strata of the Hindu society is labelled as depressed and untouchable, they still come in under the nomenclature of Hindu and within the pale of Hinduism and have common interests with them.

Both the Congress and the Moslem League have always affirmed the principle, which has been enunciated by both these bodies, that "under no circumstances should a majority be reduced to a minority, and there should not be a violation of this principle".

"The annulment of the Partition of Bengal and the unsettling of that settled fact on the 12th December 1911 had shaken the faith of the Moslems in the pledges and promises of British statesmen. The dubious attitude and policy of England during the Turko-Italian and Balkan Wars had also distracted and disturbed the Moslem mind. This drove the younger men of the Moslem League into the arms of the Congress, and resolutions passed by the League in 1913 bear unmistakable traces of Congress influence. Then came the Great War, in which Turkey was ranged on the side of the enemies of the Empire, and this sorely tried and strained the loyalty of the Moslems. Advantage was taken of this by Mr. Gandhi, who subsequently developed it into what he styled as the 'Khilafat wrong,' and some Moslems were led to accept the Pact: but in reality the Lucknow Pact gave the Moslems nothing substantial. By a clever gesture of peace and good-will, the Congress politicians succeeded in securing the acquiescence of a handful of young and inexperienced politicians of the Moslem League to the relegation of Moslems to the position of a minority in every province in India, including the provinces of Bengal and Punjab, where they constituted a majority. Disillusionment followed soon, and the Moslems of Bengal and Punjab bitterly rue the Pact to this day."

When finally the Government of India had to act in accordance with the findings of the Franchise Committee, Sir William Vincent appended a Note to the Fifth Despatch of the Government of India, dated the 23rd April 1919. This is what he wrote:—

"What is wanted is a sliding scale in which the weighting given to Muhammadans increases as their numerical weakness does. We have, as the despatch says, to measure the advantage to be given to them. To do so some arbitrary assumptions must obviously be made. The fewer and simpler these are, the better. Where the Muhammadans are in a census majority, let them get representation in that proportion. Where they are at their weakest let us double that proportion. Between these extremes let us multiply the census ratio of Muhammadans by a factor greater than 1 and less than 2"

and he proceeded to state his final proposals as follows:—

	Population percentage.	Proposed percentage of seats.
" Punjab	54.8	56
Bengal	52.6	53
Bombay	20.4	28
United Provinces	14	24
Bihar and Orissa	10.5	20
Madras	6.5	12
Central Provinces	4.3	9

(N.B.—The figures above were calculated from the Census figures of 1911.)"

In an enlarged council, say, of 200 to 280, *i.e.*, double the present number, Hindu electorates including the special electorates are likely to be captured by Extremists. The only combination opposed to them will be a combination of Moslems and Europeans and a few perhaps also from the depressed classes. Hitherto, the refined and cultured Moslems of the old school, or those who have a stake in the country, have been largely conspicuous by their absence from the council, and a large number of those Moslems that get elected, come from classes whose adherence to this or that party is likely to remain venal. This is also a factor which ought to be taken into consideration. Therefore, Moslem representation must be fixed on the population basis, for if out of the 55 per cent. some are gained over by Extremists, a sufficient number will still be left over in combination with Europeans and a few depressed class members to oppose effectively the Extremists that will be there.

In February 1926, the Muhammadans in the Legislative Council carried a resolution "recommending re-adjustment of seats in the council so as to provide that representation in the council should be proportionate to the numerical strength of different communities in the province with just and proper representation of minorities and commercial interests". Furthermore the Government of Bengal in their Memorandum for the Simon Commission stated that "A majority of the members of Government are of opinion that the representation of the Muhammadan and non-Muhammadan elements on the legislative council through the general constituencies should be proportionate to their numbers in the population, that is, that on the basis of the 1921 census, the Muhammadans should have about 55 and the non-Muhammadans about 45 per cent. of the members representing the general constituencies".

Further, the Simon Commission have recommended the lowering of the franchise. If the one-rupee union rate is adopted, the Muhammadan vote will increase from 513,000 to more than 1,121,000; and the Hindu vote from about 540,000 to 900,000; and it will be seen that Muhammadan representation of 55 per cent. and Hindu representation of 45 per cent. will be roughly the approximate ratio of the number of voters to the number of representatives.

Finally, it should be noted that the Lucknow Pact was entered into before the historic declaration of 1917. It was then contemplated that the proportion of representatives of the two important communities as agreed to, would only remain in a system of government conducted with local councils, more or less as an advisory body, where the executive would retain sufficient power to redress any wrongs on either side wherever they occurred. At the present moment, however, the constitution visualised is a great advance. In fact, it is intended to introduce self-government almost to the fullest extent and the legislature will not be of the same complexion but will have complete control over the executive. Such being the case the Lucknow Pact *ipso facto* becomes obsolete and should on no account have been taken as a basis for fixing the ratio of representation in a constitution of the kind proposed; nor should it be left within the ambit of Parliament to reduce an actual majority, wherever found in any of the constituent states of the federal system, into a minority by an Act of Parliament.

No. 222-A. C., dated Calcutta, the 22nd August 1930.

From—W. S. HOPKINS, Esq., C.I.E., O.B.E., I.C.S., Chief Secretary to the Government of Bengal, Appointment Department, Reforms,

To—The Secretary to the Government of India, Reforms Office.

With reference to last paragraph of Appendix A to my letter No. 219-A. C., dated the 15th August 1930, on the above subject, I am directed to submit herewith a note, dated the 16th August 1930, on communal representation by a Hindu member of Government.

Note dated the 16th August 1930, on communal representation by a Hindu member of Government.

The Hindu members of Government were opposed to the continuance of communal representation. They did not think it necessary to enter into any general discussion affecting the question, because the arguments for and against such representation were so well-known. They, however, desired to include in their memorandum certain special points apart from the well-known general points. They further wanted to examine the question particularly from the point of view of the problem affecting this province. Before the memorandum was finally prepared one of the Hindu members of Government unfortunately tendered his resignation. It was not possible, therefore to complete the whole memorandum as one submitted jointly by the Hindu members. Both the Hindu members however were opposed to the continuance of communal repre-

sentation. The remaining portion of the memorandum, therefore, represents the opinion of the only Hindu member who is left in the Government.

This member is of opinion that communal representation has prevented a sense of common citizenship growing up. It has perpetuated cleavage between the two communities and such cleavage has, in the opinion of the member, resulted in physical conflicts and creation of disruptive forces, dangerous to the structure of society. It has at times resulted in such tense feeling between the two communities as to affect the normal life of the people. Within recent years there were communal conflicts on a large scale in Calcutta, Kulkati in Barisal, Madaripur in Faridpur, extending to portions of the eastern tracts of the district of Barisal, in Pabna, twice in Dacca and at Kishorganj in the district of Mymensingh. On each of these occasions the communal feeling became bitter and intense. In the opinion of the member it is neither necessary, nor relevant, for a proper consideration of the question at issue, to apportion the blame between the two communities. The only relevant point is the existence of the bitter feeling. In Dacca on both occasions the Hindus charged the Muhammadans with unprovoked assaults and the Muhammadans reciprocated the charge. Many members of both the communities believed in these charges and counter charges. There was considerable loss of life and property and the position of the authorities whose duty it was to maintain peace became acutely difficult. In Dacca the Muhammadans complained that the Hindus refused to employ Muhammadan masons and hackney carriage drivers. When the Hindu peace-makers approached the members of their community on this point they were met with the reply that the Muhammadan masons and hackney carriage drivers were responsible for loss of life and property of the Hindus and so they did not want to employ them. At Kishorganj a whole countryside was reduced to a state of panic, considerable property was looted and a number of persons were brutally murdered. It has been suggested by the Muhammadans that a good deal of this lawlessness was due to the fact that money-lenders and the wealthier men mostly came from the Hindu community, the debtors and the poorer men from the Muhammadan community. It was further suggested that the origin of the trouble was

economic and not communal. Whatever the origin might have been the actual result is well-known. It is clear that these communal conflicts seriously affect the economic side of life of the general citizen.

During the Calcutta riots this member along with a number of Hindus and Muhammadans tried to form a peace committee to relieve the communal tension. His experience of the efforts of the Calcutta peace committee convinced him that influential members of both communities who had political ambition and desired to stand for election either from Hindu or Muhammadan seats were very reluctant to take a helpful attitude. They were afraid of their chances of success in the next election, whether for some seat in the Calcutta Corporation or in the Legislative Council. He is convinced that if the important citizens of both the communities knew that in the next election it would be necessary for them to approach the voters of both the communities, then they would have tried their utmost to relieve the communal tension and approach the questions before them from a very different spirit.

Five years ago communal feeling in Bengal on the Hindu side, at any rate, was negligible. The leading men amongst the Hindus, who were Bengalis by birth, had very little of communal feeling against the Muhammadans. When the Hindu Sabha and the Sangathan movement was started in other parts of India it made very little impression on Bengalis by birth. The Bengalis by birth were so averse to taking up this movement that the Hindu Sabha had to look to a Marwari or upcountry gentleman, Bābu Padmaraj Jain, to be the Secretary. The sympathisers of the movement were mainly confined to the Marwaris and other orthodox upcountry men who settled in Bengal. Hindu orthodoxy in the sense as it obtains in other parts of India is a rapidly diminishing factor in Bengal. For that and other reasons the Bengalis did not sympathise with the Hindu Sabha or the Sangathan movement. An examination of the activities of the Hindu Sabha movement and of the personnel of the committee of that Sabha will show that there were very few well-known Bengali Hindus interested in it. The physical conflicts and the resulting lawlessness of the Calcutta riots created a change for the worse in communal feeling amongst the Bengali Hindus. The Pabna riots made the position worse, and

the Dacca and the Kishorganj affairs have accentuated that feeling. Even at the present moment, in spite of these disturbing factors, communal feeling is not as bad as it is represented to be. The best incentive to recruitment to the Hindu communal camp is these riots and the physical conflicts. In the opinion of the member one important factor which is increasing the bitterness between the two communities in Bengal is the creation of public opinion on communal lines. This in his opinion is the direct result of separate electorates. The attitude taken or supposed to have been taken by a number of high police officials, particularly in the districts, have created a feeling amongst a considerable section of the Hindu community that these officials are pro-Muhammadan and anti-Hindu. This state of feeling may be unfortunate, but it exists. As the struggle for power in opposite communal camps will increase the position of the British officials is likely to become more and more difficult. This, in the opinion of the member, is an additional reason for abolishing separate communal electorates.

In the opinion of this member the great danger before the country to-day is the increase of disruptive forces of society so as to affect the economic life of the people. Maintenance of law and order to ensure liberty of action may be difficult, but not a tenth as difficult as taking adequate steps to minimise forces so insidiously affecting the economic life of the people. In his opinion communal representation is a source of great danger with regard to the last mentioned point. The greater the rivalry between the leading men of the two communities for division of political power the greater the danger to the economic structure of the society if communal representation be perpetuated.

One Muhammadan objection against joint electoral bodies was that such bodies would elect only those Muhammadans who are sympathetic to the Hindus. There may be a good deal of substance in this objection in provinces like the Central Provinces where the Muhammadan percentage* was only 4.1, Madras where that percentage was only 6.6, in Bihar and Orissa where the percentage was only 10.6, in the United Provinces.

* The figures for the percentages are taken from the Census of India of 1911.

where the percentage was 14, and in Bombay where the percentage was 20·4. But in Bengal and in the Punjab, where the percentage was 52·7 and 54·8 respectively, there is no force in this contention. On the other hand, the Hindu community might well apprehend that in these two provinces only Hindus sympathetic to the Muhammadans would be elected. The Simon Report at the bottom of page 71 of Volume II has hinted at introduction of joint electorates for Bengal and the Punjab. The member desires to draw attention to it.

Then again in Bengal the Muhammadan population being large, electioneering education of such population on communal lines has increased and will increase still further the cleavage which will lead to physical conflicts on a much larger scale than in the other six provinces where the percentage is small.

The district board elections in Bengal, particularly in Eastern Bengal, demonstrate the fact that the Muhammadans do not run any risk of returning pro-Hindu members of their community. These elections further prove that in spite of the supposed superior wealth and position of the Hindus, Muhammadans are returned in such large numbers as to form a majority.

If the system of joint electorate be adopted in Bengal then the Hindus run a serious risk of the elections being dominated by the Muhammadan majority, but in the wider interest of creating a sense of common citizenship the Hindus are willing to take this risk. They are by no means blind to the fact that in the first few elections they are likely to suffer materially. If joint electorates be accepted for Bengal then it will be necessary for the Franchise Committee to examine the question of allocation and reservation of seats for both the communities.

Assuming that communal electorate will be perpetuated in Bengal it will be necessary to determine the principle which will govern the numerical strength of the elected members of the two communities. In the opinion of the member, the Simon Report has given as favourable a decision as possible to the Muhammadan community in Bengal. Neither the Muhammadan members of the Government of Bengal nor the British members have given any cogent and satisfactory reasons for deviating from the decision of the Simon Report. He would point out that the majority

community has no right to ask for separate electorate. It ought to be against all fundamental ideas of justice that if in the 6 out of the 8 provinces weightage be given to the Muhammadan community, if in these 6 provinces their representation be not on the population basis, then their representation in the two provinces where they are in a majority should also be on a population basis. It is not fair to claim the advantages both ways and to disregard the disadvantages. The member is constrained to remark that the attitude of the British members of the Government in this respect is incompatible with their claim to hold the balance between the two communities evenly. One British member of the Government, when submitting the memorandum of this Government before the Simon Commission, dissented from the proposition that the representation of the Muhammadans should be on the basis of their population ratio. What induced that member to change his opinion has not been made clear.

Communal representation was first introduced when the Morley-Minto scheme was under discussion. The introduction of communal representation at that time was an act of the British authorities. The sixth point mentioned in justification for communal representation was that "with joint electoral bodies only Muhammadans sympathetic to the Hindus would ever be elected". (Simon Report, vol. I, page 184.) It has already been pointed out that this point cannot have any application to Bengal. Lord Minto no doubt accepted the arguments of the Muhammadans. He was then dealing primarily with the all-India aspect of the problem. Further, under the Morley-Minto scheme there was no question of wide electorates or representation on the basis of population. The decision which followed the inauguration of the Morley-Minto scheme gave a representation which was actually very much less than what should be on the population basis. The separate representation obtained by the Muhammadans in the Imperial Council was only 5 seats, 1 for each of the three Presidencies, 1 for the United Provinces and 1 for Bihar and Orissa. In the provincial Councils, Madras and Assam were to have 2 Muhammadan members, Bombay, Bihar and Orissa and the United Provinces 4 each, and Bengal 5 only out of a House of 50 containing 27 elected representatives. In the Punjab special protection was not considered necessary. Under the Montagu-Chelmsford scheme the Muhammadans gained a great

advantage, but such advantage was not based on the decision of the British authorities, nor was it based on an examination of the justice of the case. It was based on a compromise arrived at between the two communities by what is known as the Lucknow Pact. That pact no longer exists. One of the communities has expressed in no unequivocal terms that there should be no communal representation. The question, therefore, has to be examined on its own merits. If the question be examined on its own merits it is necessary to take into consideration not only the population and the voting strength but also the contribution of each community to the taxes of the provincial and of the central Governments. A question like that can only be conveniently examined by a special committee. The member desires to suggest that such a committee should be set up. The committee should consist of an equal number of Hindus and Muhammadans with some public men from England. The public men should be selected from persons who have an open mind. The member desires to express the opinion that if in Bengal the question be considered by an impartial committee from the points of view mentioned by him, then it is extremely likely that the number of seats to be separately reserved by communal electorate to the Muhammadans will not be more than 30 per cent. of the total number of the elected seats.

He desires further to submit that as the basis of the compromise embodied in the Lucknow Pact is no longer in operation, the number of Muhammadans in the Central Legislature should depend not only on the population basis for the whole of India but on the voting strength and the rating strength of the members of such community. Once the total number of the seats to be reserved for the Muhammadan community in the Central Legislature has been fixed, then it should be left in the first instance to the members of that community in the different provinces to allocate the number of seats in the Central Assembly as also in the provinces. After the members of that community in the different provinces have agreed to do so, then the Hindu community should be heard on that point and a final decision should be arrived at.

The member also desires to refer to the previous memoranda submitted by him on the subject when this question was discussed by the Government of Bengal in connection with their memorandum to the Simon Commission.

No. 921-A. D., dated Darjeeling, the 15th September 1930.

From—W. S. HOPKINS, Esq., C.I.E., O.B.E., I.C.S., Chief Secretary to the Government of Bengal, Appointment Department, Reforms,

To—The Secretary to the Government of India, Reforms Office.

In continuation of letter No. 219-A. C., dated the 15th August 1930, I am directed to communicate for the information of the Government of India the observations and conclusions of the Government of Bengal on the financial proposals of the Indian Statutory Commission.

2. The foundation of these proposals is an attempt to apply certain general principles to Central and Provincial finances so as to secure a uniform basis for the provincial settlements. The alternative to this would be settlement with each of the provinces on the basis of needs. This would entail a detailed and laborious investigation by an expert and independent committee such as was proposed to be undertaken in 1919 and it is at least doubtful if its results would be any more satisfactory to all parties than those of the scheme propounded by the Commission. This Presidency having been very adversely affected by the last financial arrangements, the Government of Bengal feel that they have strong grounds for pressing for at least a preliminary adjustment, so that they may enter upon the new régime unburdened by the effects of their financial disabilities during the last ten years. They recognize, however, that Bengal is not peculiar in this respect, that some of the other provinces would have claims to similar treatment and that all these would be difficult to assess and adjust. But whether any attempt in this direction is made or not, they consider it of paramount importance for the success of the new constitution that Bengal at all events should start with fresh and increased resources. While therefore, without prejudice to any possible preliminary adjustment, they accept the suggested uniform settlement in preference to one on the basis of needs, they desire to emphasise the necessity of the Government of India organising their finances in the immediate future in such a way that the provincial Governments may obtain a substantial share of the revenues, which it is proposed to transfer to them, from the very inception of the new constitution.

It is emphasised by both the Commission and Sir W. Layton that their financial scheme is intimately bound up with the federal nature of their general constitutional pro-

posals and particularly with their recommendation for indirect election to the Central Legislature. The Government of Bengal recognize that a federal constitution increases the desirability of a uniform basis for the financial arrangements between the Federal Government and its constituent parts, but they are not equally satisfied that, to quote Sir W. Layton, the "endeavour to ensure that responsibility for imposing additional taxation is definitely laid on those who will have to incur additional expenditure" necessarily involves a scheme of indirect representation in the Central Legislature. In fact this would only seem to follow if it be assumed—and the assumption is by no means self-evident—that the provincial representatives in the Central Assembly would necessarily vote upon instructions received from the Provincial Finance Minister with whom under the proposals the initiation of additional taxation would rest.

3. The main assumption on which the Commission's proposals rest is that, while the expenditure of the Central Government ought to remain more or less stationary, their revenues will progressively increase, thus enabling them to release more and more funds for the benefit of the Provinces. The Government of Bengal are unaware of the facts on which Sir W. Layton based his calculations and have not the material on which to frame any informed criticism, but it seems to them that his figures are very much more optimistic than even he admits, being based on assumptions of rapid recovery from worldwide economic depression, absence of internal and external disturbing factors, and the willingness of the Imperial Government to assume part of the liability for military expenditure. In view of the extremely hypothetical nature of these assumptions, the Government of Bengal consider it most doubtful whether it will be at all possible to frame such a timetable as Sir W. Layton contemplates for the release to the Provinces of sources of Central Revenues. In fact, as was the case with the Meston Settlement, it must in their opinion rest with the Central Government to decide when any surplus shown in the Budget is evidence of a reliable margin of receipts over expenditure sufficient to justify the permanent sacrifice of productive revenue. When, however, this condition has been reached and any source of revenue has been transferred for the benefit of the Provinces, it will, in the opinion of this Government, still be necessary to allow sufficient elasticity to the revenues of

the Central Government to enable it to cope with emergencies and they agree with the suggestion contained in paragraph 163 of the Report that in such cases a surcharge could be levied for the benefit of the Central Government on any such source of revenue. They feel, however, some doubt whether even such a provision will by itself be sufficient and incline to the view that the Central Government must retain the power to fix the rates at which the various taxes are to be levied for provincial purposes; otherwise they might in an emergency find themselves without a taxable margin and the suggested surcharge would be infructuous. They are further of opinion that it will be desirable to retain some such provision as that of the present Devolution rule 19 to ensure that the Central Government can in case of need call upon the provinces for assistance.

4. The time-table suggested being hardly a matter of practical politics, it seems that the provinces will for a more or less indefinite period get no appreciable share of Central revenues. They will thus have to depend at the outset upon the other features of the scheme for any improvement in their financial position. Before examining these, however, the Government of Bengal desire to point out that in the meantime circumstances may arise in which from time to time the Central Government will find itself in possession of a substantial surplus though it cannot reckon upon its recurrence. It seems reasonable that the provinces should benefit from any such surpluses and that these should be distributed to them on some such automatic basis as is suggested for the "Provincial Fund". It might be necessary to lay down that the provinces should apply such wind-falls to non-recurring expenditure or to reduction of debt, but the main point is that, while waiting to share in the results of a permanent improvement in the Central Government's financial position, they can fairly claim to share in any temporary excess of Central Revenue over expenditure.

5. The resources of the Provinces, as contemplated by the Commission, will consist of the following :—

- (1) Existing provincial sources of Revenue, *less* commercial stamps and High Court fees.
- (2) Terminal taxes.
- (3) Surcharges on personal incomes liable to income-tax.

- (4) Increased excise duty on foreign liquors.
- (5) Fifty per cent. of the yield of personal income-tax when released by the Central Government.
- (6) All the income-tax on agricultural incomes.
- (7) Share of the "Provincial Fund".

6. As regards the first item, it is to be noted that the receipts in Bengal from commercial stamps when last calculated amounted to Rs. 41 lakhs, while the receipts from miscellaneous High Court fees, *i.e.*, those not paid in judicial stamps (which as proposed in paragraph 347 of the Report will remain provincial) come to about Rs. 3.27 lakhs annually.

As regards the increased excise on foreign liquors, it has been calculated on present rates that the increase in receipts in this Presidency will be about Rs. 27 lakhs. Sir W. Layton reckoned that, as far as the Central Government are concerned, the loss on foreign liquors and the gain on commercial stamps will about balance, but it will be seen from the above figures that this Presidency will stand to lose about Rs. 17 $\frac{1}{4}$ lakhs annually. The Government of Bengal do not, however, oppose the suggested adjustment of these two heads and the High Court fees, provided that this lee-way is made up elsewhere.

7. As to the second item, terminal taxes, the situation in Bengal is complicated in this respect in that a terminal tax on passengers is already levied for the Calcutta Improvement Trust, one on goods is levied for the present Howrah Bridge and one on passengers is proposed for the Howrah Improvement Trust. But apart from this and from the difficulty of calculation and collection, it seems likely that, if imposed on the scale suggested by Sir W. Layton, terminal taxes will amount to an excessively high surcharge on railway freights, which is to be deprecated on general grounds and will be strongly resented by trading interests. On these considerations the Government of Bengal are of opinion that the proposal is hardly within the bounds of practical politics.

8. As regards the taxation of agricultural incomes, it is not very clear from paragraphs 269 and 270 of the Report whether the intention is that this should be imposed Centrally or Provincially, but in the opinion of this Government, apart from the difficulties presented by the varieties of land revenue systems obtaining in different parts of

India, this is a tax which could be imposed only by a responsible Government, and it may be accepted as certain that no Legislative Assembly, at any rate in the next few years, would pass such a taxation bill. The subject has often been discussed before, *e.g.*, by the Taxation Enquiry Committee, and it is beset with serious political, legal and administrative difficulties which it would be unwise to ignore or to minimise. Also the estimate of yield has varied from less than Rs. 1 crore to Rs. 3 crores. Sir W. Layton assumes Rs. 5 crores, which would appear to be far too high a figure. In paragraph 269 of the Report it is stated: "Increased productivity, together with the rise of prices since pre-war days, has enormously increased the money value of India's agricultural products". If we consider that one of the major difficulties at the moment is the heavy fall in prices of agricultural produce, *e.g.*, cotton and wheat, and that raw jute in the present year is touching absolutely rock-bottom prices, Sir W. Layton's generalization is open to severe challenge. As regards the possibility of taking agricultural income into account for the purpose of calculating the rate of income-tax, this seems open to precisely the same objections as a tax on the agricultural income itself, which it would in effect be. The Government of Bengal, therefore, consider that the proposal to tax agricultural incomes, either directly as such or indirectly through the rate, is one that must be rejected.

9. It thus appears that the only sources from which the provincial Governments are likely to secure increased revenue are the surcharge on personal incomes liable to income-tax (item 3), half share of personal income-tax (item 5) and their respective shares of the Provincial Fund (item 7). The date when they will receive any share of the personal income-tax is, as already noted, exceedingly uncertain and therefore this source must be excluded in considering the financial condition of the Provinces at the inception of the Reforms. As regards the proposed surcharge on personal incomes, the Commissioner of Income-tax, Bengal, has furnished the following figures as the total income-tax realized from personal incomes:—

	(In thousands.)
	Rs.
1927-28	1,74,11
1928-29	1,92,22
1929-30	1,95,76

This gives an average of Rs. 1,87,36,000 per annum. This, on the supposition that the maximum surcharge is at once imposed, gives an additional revenue of Rs. 46·84 lakhs annually, but it should be borne in mind that this yield depends on the maintenance of satisfactory economic conditions, and that a trade depression such as is being experienced at present will materially affect it. It further seems open to doubt whether the Provincial Finance Minister would take upon himself the onus of proposing to impose the maximum surcharge at the outset. Apart from that, however, the Government of Bengal accept the proposal that provincial Governments should be empowered to levy this surcharge.

10. The "Provincial Fund" is to include the following :—

- (1) An excise on tobacco (paragraph 272).
- (2) An excise on matches (paragraph 273).
- (3) The duty on salt to be transferred if and when the Central Budget permits.
- (4) Any other tax of the kind which may be subsequently imposed.
- (5) Ultimately a proportion of the Customs revenue.

Of these items it seems unlikely that (3) and (5) will find their way into the Fund in the near future. It also seems unlikely that further taxation on the lines of the proposed excises on matches and tobacco will be introduced or carried for a considerable period. It thus appears that at the outset the Provincial Fund will be limited to these two excises, but the Government of Bengal have been unable to discover at what stage of the constitutional changes the necessary legislation to impose them is to be carried. The natural assumption is that, while provision for constituting a Provincial Fund is to be included in the new Government of India Act, the actual legislation to introduce the new taxation will have to be proposed and carried in the new Federal Assembly. If this is the correct view, it seems by no means an unreasonable possibility that that body will refuse to pass the requisite legislation, in which case the Provincial Fund will be a mere name without substance. For present purposes, however, it is assumed that this legislation will be successfully carried through. Sir W. Layton reckons that these excises will yield about Rs. 8 crores at the end of 10 years over

the whole of India. What initial yield may be assumed has not been stated. This, however, is a point which will be discussed later. It is sufficient for the present to say that the Government of Bengal approve the idea of establishing this Provincial Fund. They are, however, not so satisfied as to the proposals regarding its future modification. In fact they find considerable difficulty in understanding the formula "a majority of the representatives of two-thirds of the Governor's Provinces, including for this purpose the North Western Frontier Provinces", which is given in paragraph 163 of the Report. It presumably refers to the elected representatives of the Provinces on the Federal Assembly and excludes nominated and other members, but even so its exact implications are obscure and it reads as if three of the larger Provinces could successfully block any proposal for reallocation or redistribution of the Provincial Fund, however, unfair the original arrangement might have proved to some of the others. The Government of Bengal consider that the procedure proposed is likely to be too rigid and would prefer some simpler machinery which would ensure a periodical revision. In view of the possibility of conflicting provincial interests, resulting in a deadlock, they also consider it desirable to reserve to the Central Government the power of initiating taxation for the benefit of the provinces.

11. It is proposed that the Provincial Fund, when constituted, is to be distributed to the Provinces on the basis of population and, while recognizing that this may operate unfavourably to the less populous provinces, the Government of Bengal consider that it is the most satisfactory course to pursue. It is in fact difficult to conceive any other solution which would not involve a consideration of provincial needs, a method which as already indicated bristles with difficulties and seems hardly likely to produce a more satisfactory result.

12. The application of the Commission's proposals to the finances of Bengal may now be considered in the light of the foregoing observations. As already noted, it has not been stated what yield may be expected from the excises on matches and tobacco when first introduced, but if Sir W. Layton's estimate of Rs. 8 crores for the whole of India after 10 years is at all correct, it may not be unduly optimistic to take half of this as the initial yield. On this basis the share of Bengal at the beginning on the population basis would amount to Rs. 82 lakhs. The yield from

a surcharge on personal incomes of the maximum amount would, as shown in paragraph 9 above, amount to Rs. 46·84 lakhs. The total increase to Provincial revenues would thus be Rs. 128·84 lakhs, but against this is to be set off a reduction of Rs. 14 lakhs from the excess of receipts from commercial stamps over the new excise on foreign liquor and some Rs. 3·27 lakhs on account of High Court fees, as well as increased expenditure on account of the separation of accounts and audit which has not yet been calculated, but which may be taken as being in the neighbourhood of Rs. 5 lakhs; on the other hand there will be a substantial reduction in expenditure of about Rs. 17 lakhs under the High Court. If Rs. 5 lakhs be taken as the cost of accounts, the total improvement to provincial finance, if all expectations materialize, would thus be about Rs. 123½ lakhs as shown in the statement below :—

<i>New Receipts.</i>	<i>Lakhs.</i>
	<i>Rs.</i>
Surcharges on personal income . . .	+ 46·84
Share of Provincial Fund . . .	+ 82·00
	<hr/>
Total . . .	128·84

Adjustments.

Decreased Receipts.

	<i>Rs.</i>
1. Commercial stamps <i>minus</i> new excises . . .	- 14·00
2. High Court Fees . . .	- 3·27

Increased Expenditure.

3. Accounts . . .	- 5·00
	<hr/>
	- 22·27

Decreased Expenditure.

4. High Court . . .	+ 17·02
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Net . . . - 5·25 - 5·25

Result . . .

+ 123·59

From the figures of 1928-29 and 1929-30 as given in paragraph 9 above, it appears that the collections of personal income-tax in Bengal amount to about one-ninth of the total collections of income-tax in India. If therefore Sir W. Layton's anticipation of an increase of Rs. 5 crores in

10 years is correct, the provincial surcharge on the same assumption as above will come to one-fourth of one-ninth of Rs. 5 crores, which equals Rs. 13·88 lakhs, bringing the total surcharge to Rs. 60·72 lakhs. Similarly, if his estimate of Rs. 8 crores for the Provincial Fund at the end of 10 years materializes, the share of Bengal will be Rs. 164 lakhs. Allowing the same adjustments as in the previous calculation for High Court, Excise, Commercial Stamps and Accounts, the net improvement in the provincial position at the end of 10 years without any assistance from Central revenues would be Rs. 219·47 lakhs. This figure falls far short of that which the Government of Bengal consider essential to the proper development of the province, but, if and when the Government of India are in a position to release the share of income-tax suggested by the Commission or the salt revenue for the Provincial Fund, the improvement in Bengal's sources will rise to a figure which may be considered adequate. It must, however, be remembered that the foregoing calculations are based upon so many hypothetical factors that it is quite within the bounds of possibility that the new régime will produce no improvement at all.

13. The Commission's proposals regarding borrowing powers and provincial balances remain to be considered. The former may be summarised as follows:—

- (a) The loans raised by Provincial Governments should be subject to standard regulations and their raising should be co-ordinated.
- (b) To this end a Council of Provincial Finance Ministers should be instituted, over which the Finance Member of the Government of India should preside. Its tasks should be "to establish a borrowing programme, to lay down the standard regulations, and to arrange terms with the Government of India". It should, however, be advisory only for the present, and the real power should vest in the Central Government. On the other hand, it is contemplated that the latter should not act without consulting the Council, since it is specifically stated that consultation should invariably be made before special sanction is refused to a loan even where such sanction is definitely required by the regulations.

(c) As responsible Government in India develops, the Council may cease to be a mere advisory body and may acquire real power.

These proposals, in the opinion of the Government of Bengal, should be accepted in the main though some elasticity should be provided to allow of provinces assuming complete control of, and responsibility for, their own finances, it being quite conceivable on the one hand that a province might command better credit than the Central Government and on the other that the credit of the latter might be gravely impaired by bad finance in one or more provinces.

14. As regards provincial balances, Sir W. Layton's reasons for recommending that the Provincial Balances should not be separated are given in paragraph 310 of the Report, and in the last sentence of paragraph 189 the Commission say that they agree generally in Sir W. Layton's observations in regard to the keeping of Provincial Balances. There is no strong demand for a change and the Government of Bengal accept the proposal that matters should remain as they are as far as the Provincial Balances are concerned. It is possible that at some time in the future an autonomous Provincial Government may desire to maintain its own balances, but the matter may be considered when that demand arises.

15. The foregoing paragraphs deal with the main features of the scheme contemplated by the Statutory Commission but certain points of detail require further examination, as well as some of their miscellaneous suggestions.

16. To return to the proposed provincial excise duties on foreign liquors, which are considered in paragraph 291 of the Report, although at first view the suggestion is simple and attractive, closer examination reveals innumerable practical difficulties of which intricate interprovincial adjustments, a multiplication of bonded ware-houses and a general clogging of the trade are a few. It, therefore, seems preferable that a uniform customs duty should continue to be levied and the proceeds, after deduction of the "luxury duty" portion, distributed among the provinces, either according to consumption or through the Provincial Fund according to population.

17. As regards the suggested excise on matches, a subject which has already been under discussion between the Government of India and Local Governments, the Govern-

ment of Bengal agree that this should be centrally fixed at a uniform rate throughout India. They realize that, before the excise can be introduced, agreements will have to be reached with the Indian States, and as this is likely to delay matters considerably, they would urge upon the Government of India the necessity of getting their proposals into definite shape as early as possible.

18. The same applies to the proposed excise on tobacco. Sir W. Layton seems to have had cigarettes particularly in mind, but it appears to this Government that the excise should be imposed on all forms of factory-produced tobacco. The question of taxing raw tobacco or of imposing vend licenses may well be left to the provincial Governments to take up if they please.

19. In paragraph 275, Sir W. Layton suggests that cesses on land might be suitably increased. Actually an Act has just been passed in this province imposing an additional cess for the purpose of primary education. Any proposals for its further increase must be left to the provincial Governments and legislatures, but seem likely to meet with very considerable opposition.

20. As regards the proposal in paragraph 267 of the Report that the lower limit of liability to income-tax should be further reduced and the general rate of progression steepened, this Government, while expressing no opinion on the latter proposal, doubt if there are good grounds for adopting the former. Lower individual incomes already pay more tax than is levied in the United Kingdom in the case of married persons owing to the family deductions allowed there, while to lower the limit would mean the imposition of a tax which would fall mainly upon the lower grades of salaried employees of Government. Such a proposal would be greatly resented and the Government of Bengal doubt if the yield would be so much in excess of the cost of collection as to justify its imposition.

21. The question of death duties has been under the consideration of this Government since 1922 and was last investigated in connection with Mr. Burdon's letter No. F-3-(XIII)-F-27, dated the 28th November 1927, but no definite decision has been reached. Their tentative opinion is that this is a matter for provincial legislation, though it will probably be necessary to reserve to the Centre control over the rate of tax in order to avoid differences between provinces.

22. A reference is invited to paragraphs 346 and 347 of the Report in which it is proposed that the administration of the High Courts and the expenses thereof should be transferred to the Central Government, the latter being compensated by making High Court fees a source of central revenue; it is at the same time suggested that judicial stamps should remain provincial. The intention apparently is that all fees which are not paid in stamps should be credited to Central revenues. It has already been pointed out in paragraph 6 of this letter that the income from fees not paid in stamps amounts to about Rs. 3·27 lakhs. The income from fees paid in stamps (Rs. 27·11 lakhs) which includes the very important item, probate duty (Rs. 16·27 lakhs), is very much greater, and the Government of Bengal would like to be assured that this revenue will not be taken from them. As pointed out in paragraph 12 of this letter, the adjustments resulting from the transfer of commercial stamps, excise on foreign liquors, accounts and the High Court would mean a net loss to this province of Rs. 5¼ lakhs. If the probate duty and High Court fees realized in stamps are also transferred to the Centre, the position of this province will be worse than it is at present to the tune of Rs. 32 lakhs and upwards while its increased receipts are, to say the least of it, highly problematic. The question is thus one of the utmost concern to this Government and they are anxious that the transfer of the High Court should not involve any change beyond the actual proposal contained in the concluding portion of paragraph 347 of the Report.

23. As regards the separation of accounts and audit, this Government agree that this is desirable in theory and they will be ready to put it into practice as soon as funds permit. For the purpose of previous calculations the additional cost has been taken at Rs. 5 lakhs annually. But this is a pure guess and it may work out at a much higher figure. The United Provinces which alone have introduced this separation have had, it is understood, to incur an additional expenditure of some Rs. 9½ lakhs, but against this have to be set off not inconsiderable savings which have resulted from the separation. If and when this change is introduced, the Local Government will have to rely, at all events for some years, upon the Central Government supplying officers from their Accounts cadre to conduct the work for them.

24. Although it is recognized that no time-table can be fixed for the surrender to the provinces of Central sources of revenue, it is not unreasonable to expect that the Central Government will be in a position as time goes on to make increasing surrenders, and the question will arise in what order the surrenders should be made. Sir W. Layton's proposals which have been endorsed by the Commission definitely recommend that a start should be made with income-tax in order to benefit the industrial provinces, particularly Bombay and Bengal. The Government of Bengal naturally prefer that a share of income-tax should be surrendered first as they stand to gain thereby, but the difference between that and receiving a share of the salt revenue on the population basis will not be so great that they would stand in the way of the latter being chosen first. Presumably, however, the question as it first arises will not be whether the whole of salt or the half share of personal income-tax is to be transferred; the position will be that the Central Government will have a certain surplus upon the recurrence of which they feel that they can rely and the question will be whether this is to be distributed to the provinces through the Provincial Fund on the basis of population by the surrender of a portion of the salt tax, or on the basis of origin as a portion of the income-tax. In the view of this Government it would probably be fair to all provinces if half of the surplus was taken under one head and half under the other.

25. Although the provincial Governments are hardly concerned in the matter, the Government of Bengal agree with the proposal in the concluding portion of paragraph 311 that the present provision requiring the authority of an Imperial Statute for the raising of Sterling loans by the Secretary of State can be abolished, and they do not see any objection to the further proposal that the function of borrowing in London should be transferred from the Secretary of State to the High Commissioner.

26. In paragraph 187 the Commission recommend that the present restriction on spending money from provincial funds on central subjects and *vice versa* should be relaxed and that it should be rendered constitutionally possible under suitable restrictions to assist provincial objects from central funds. They do not state what they consider to be a suitable restriction, but there should not be any difficulty in devising a formula to enable such mutual assistance

to be given for purposes which are of general as well as of local interest, and the Bengal Government support the proposal.

27. In paragraphs 160 and 161 of the Report the Commission propose to retain the power of initiating measures of taxation for Central purposes exclusively in the hands of the executive and to make no change in the existing system of voting estimates. This means that the initiation of proposals, both for taxation and for expenditure, is to remain with the executive. The Government of Bengal consider that this is essential and that it should be definitely laid down that this principle is to apply in the provinces as well as in the Central Government. This would not prevent the local legislatures passing resolutions recommending certain expenditure to Government, but the introduction of the actual proposals for such expenditure must rest with the Government itself and be introduced by one of the Ministers.

28. There remains the question of territorial adjustments. These, if the Commission's proposals are adopted, will involve the transfer of two small blocks of land to the new Oriya-speaking province and the exclusion of the Chittagong Hill Tracts and possibly the Darjeeling District. This implies important adjustments of both revenue and expenditure, but it has been considered premature to examine at this stage the actual financial effects.

29. Before concluding the Government of Bengal desire once more to lay stress upon the imperative necessity of ensuring that the provinces obtain increased resources from the introduction of the new constitution. Attention has already been drawn to this in paragraph 2 of this letter, while the problematical nature of the effects of the proposed scheme has been stressed in paragraphs 10, 12 and 22. No scheme of constitutional reform, however satisfactory in theory will have any chance of success unless the financial position of the provinces can be improved from the very beginning. The present political movement has affected the income and expenditure of both provincial and Central Governments, and it seems essential that steps should be taken at once to restore financial stability if the provinces are not to enter upon the new régime with empty purses and with no immediate prospect of replenishing them. It thus appears to be of the utmost importance that the Government of India should take immediate steps to add to

their resources by increased taxation in order that they may be in a position to surrender some portion of the income-tax or salt duty to the provinces as soon as the new constitution is introduced.

30. In conclusion I am to express the regret of this Government for the delay which has occurred on account of a variety of causes in the submission of these views.

No. 1013-A. D., dated the 18th/20th September 1930.

From—The Government of Bengal,

To—The Government of India, Reforms Office.

With reference to paragraph 18 of letter No. 219-A. C., dated the 15th August 1930, I am directed to submit herewith a further note, dated the 19th September 1930, by the Muhammadan members of Government on communal representation.

Note by the Muhammadan Members of Government, dated 9th September 1930, on Communal Representation.

All arguments for and against the retention of communal or separate electorates have been threshed so threadbare that the Moslem Members of Government did not think it necessary to refer to this matter in their previous note on Moslem representation in the local Council. Since, however, a note has been added on the subject by a Hindu Member and since a few other matters have been touched upon by him in a previous note, added as Appendix A to the letter from the Chief Secretary to the Government of Bengal to the Secretary, Government of India, Reforms Office, dated 15th August 1930, the Moslem Members would refer to these points briefly in the present note.

Separate electorates were recognised as necessary by Lord Dufferin as early as 1888 and then by Lord Lansdowne in 1892. Lord Minto in 1906, in reply to an address presented by a deputation of leading Moslems headed by H. H. The Aga Khan (Ref. E. Ind., 209), gave clear and distinct assurance that separate electorates would be introduced. The assurance given by Lord Minto was confirmed by Lord Morley in the House of Commons in the following words:—

“ The Muhammadans demand three things. I had the pleasure of receiving a deputation from them

and I know very well what is in their minds. They demand an election of their own representatives to these Councils in all the stages just as in Cyprus, where I think the Muslims vote by themselves Secondly, they want a number of seats in excess of their numerical strength. These two demands we are quite ready and intend to meet in full."

Separate electorates were granted to Moslems in the Reforms of 1909, accepted by the Hindus in the Lucknow Pact in 1916, and maintained by the Montagu-Chelmsford Reforms of 1919. The All-India Muslim League, at a meeting at Lahore in 1924 under the presidency of Mr. Jinnah, passed a resolution claiming separate electorates for Moslems in the future constitution of India. A similar resolution was passed by the All-India Muslim League at Aligarh under the presidency of Sir Abdur Rahim on the 31st December 1925, the resolution being moved by Sir Ali Imam. Again on the 31st December 1926 at the Annual Session of the All-India Muslim League at Delhi, Mr. Jinnah moved a resolution in favour of separate electorates. The resolution was carried unanimously. At the historic All-India Muslim Conference held at Delhi on the 1st of January 1929 where Moslems of all shades of opinion met together for the first time, the same demand was reiterated.

It will thus be seen that Moslem India is unanimous in insisting upon separate electorates in the conditions that now prevail. This question has been examined at great length by the Simon Commission and we would refer to pages 137-139 of Vol. I and pages 56 to 60 of Vol. II of their Report. The Commission are unanimous in holding that communal representation for the Muhammadans of a province must be continued. We may also add that separate electorates have been recommended in the reports of almost all the Provincial Committees that were appointed to assist the Simon Commission. These Committees, as is known, were composed of both Hindus and Moslems.

We now refer to the main objections raised against separate electorates, *viz.*:—

- (a) That they are against the teachings of history and perpetuate class divisions. The answer to this will be found in the following quotation from

the Bengal Legislative Council Proceedings, 1918, Vol. XXVII:—

“ The history of what nation, what country, one naturally asks? If one goes to history for assistance one stands upon dangerous grounds. In the history of what nation, and of what country, have we got an example of the system of government which is offered under the reform scheme? We cannot find a historic precedent and example anywhere. The only reasonable reply to a demand for historic example would be that the conditions and circumstances of India are unique and unprecedented. It is on these unique and unprecedented conditions and circumstances peculiar to India that the Muslims base their claims for communal representation. ‘It perpetuates class division.’ This proposition provokes the smile of every student of Indian history. Class and caste divisions stereotyped in the adamant mould of immemorial custom going back to the days of Asoka and Chandragupta and beyond, do not, for their perpetuation, stand in need of a council election every three or five years, which touches only the barest fringe of the vast population of India.”

(b) That they are responsible for communal riots. For an answer to this we would only quote the following from the Supplementary Note to the Indian Central Committee’s Report at page 44:—

“ The perennial cause of communal riots, if the truth is to be told, is the intolerance of the communities concerned and their lack of mutual forbearance and self-restraint, and the weak and vacillating policy of the authorities.....”

“ Long before the inauguration of the Reforms, Morley-Minto or Montagu-Chelmsford, long before the birth of separate electorates, the bigotry and intolerance of the followers of the rival creeds converted almost each of the three principal feasts of Islam (*viz.*, two Ids and Muharrum) into a veritable feast of tears and sorrow. The Baqr’Id and

Muharrum have always been the source of annual anxiety to all concerned and the cause of disturbing the friendly relations which normally subsist between Hindus and Muslims. To this has lately been added the provocation of what is called 'Music before Mosque' The Hindus claim their civic right of using the King's highway and of playing music as they like, but they deny at the same time the use of the King's highway to the despised untouchables and challenge the Muslim's right of leading along the same highway their sacrificial cows to the places consecrated for sacrifice. . . . The unprejudiced observer will be convinced that there is no connection whatever between communal electorates and communal riots and that the causes of these troubles are of old standing and rooted in the difference of manners and customs of Hinduism and Islam."

It will be obvious to any impartial observer that the recent riots to which reference has been made in the Hindu Member's note, are not in the least due to separate electorates. In fact the reverse would be more correct. In a joint electorate communal passion is more likely to be engendered. Both the Muhammadan and the Hindu candidate would be likely to appeal to the communal feelings and bitterness of the voters in a mixed electorate, and thus there is much more likelihood of a larger increase in communal riots; whereas a Moslem candidate can scarcely appeal to communal passions against another Moslem candidate in an electorate of their own. This is equally true of the Hindu candidate. In this connection we would also refer to the Supplementary Notes by the late Nawab Bahadur Saiyid Nawab Ali Choudhury, Khan Bahadur, C.I.E., of Dhanbari, and Nawab Mushrafi Hossain, Khan Bahadur, on pages 248 to 251 and 229 respectively of the Report on the Working of the Reformed Constitution in Bengal, 1921-27.

A reference has been made to the district board elections in Bengal, particularly East Bengal; but while example has been cited from Eastern Bengal, nothing has been said of Western Bengal. In the former, Moslem population is on average 70 to 80 per cent. and that is why Moslems are

returned in large numbers. But what about Western Bengal, where conditions are just the reverse? On a reference to Appendix G of Government of Bengal's publication entitled, "Resolution Reviewing the Reports on the Working of District Boards in Bengal, during the year 1928-29", it will be seen that out of 15 districts that comprise East Bengal, the percentage of Moslem members of district boards is over 50 per cent. in 11 only; whereas out of 11 districts in West Bengal, the percentage of Moslem members varies between 4 per cent. and 23 per cent. in 8 of them. The percentage of total Moslem members of district boards, taking both East and West Bengal, is only 40.8 per cent. It must be remembered that these figures include members that have been appointed by Government to adjust the communal balance. Almost the same percentage will be found in the local boards, and in the union boards it is still less. From this it will be apparent that, even taking the preponderating Moslem population of East Bengal with that of West Bengal, Moslems scarcely have a fair chance of being returned in adequate numbers through joint electorates.

The Moslem Members do not agree with the Hindu Member of Government that "if the recommendations of the majority of the Government are accepted it will inevitably lead to a rapid disintegration of the structure of society in India—including British and Indian". They agree that the existing franchise should not be broadened by more than double and not treble as suggested in paragraph 106 of the Commission's Report. They also share the Hindu Member's apprehensions that the class of Muhammadans that will be returned to the enlarged Council through the enlarged electorates, might have a less stabilising influence than those who now come by the door of election. If any feasible scheme is worked out, such, for instance, as election through separate electoral colleges for each community, it might have their support.

Finally they wish to lay stress on the fact that the Lee rate of Indianisation should, if anything, be retarded on the ground that the present rate is working unfairly to Muhammadans. They urge that, if the present rate is maintained, then it should not be done to the detriment of any particular community, but should be carried on gradually with due regard to the communal proportion and to the securing of the widest possible confidence in the administration.

No. 4949-C., dated Naini Tal, the 23rd August 1930.

From—KUNWAR JAGDISH PRASAD, C.I.E., O.B.E., I.C.S., M.L.C.,
Chief Secretary to Government, United Provinces, General
Administration Department,

To—The Joint Secretary to the Government of India, Reforms Office.

I am directed to submit herewith the views of the Government of the United Provinces on the recommendations made by the Indian Statutory Commission in the parts of their Report mentioned in para. 3 of the Government of India's letter No. F. 67—30-R., dated June 24, 1930. As desired by the Government of India this Government have dealt with each matter in the order in which it comes in the Report.

2. As will be seen the local Government have confined themselves to questions which fall within the scheme as presented by the Commission. They have not considered, for instance, the reactions which would result in the provincial sphere from the adoption of any proposal to introduce a measure of responsibility in the Central Government. It is clear that such reactions would be far-reaching, and I am to say that His Excellency the Governor hopes that, should it be decided to bring this matter within the range of discussion, he and other members of his Government who may desire to express an opinion on the subject may be afforded an opportunity of doing so.

PART I.

CHAPTER 2.—THE MECHANISM OF ADVANCE.

3. In this chapter the Commission have pointed out that though the ultimate goal of responsible government is, according to the Preamble of the Government of India Act, to be reached by successive stages, there is no reason why the length of these stages should be settled in advance or why each stage should be marked by a commission of inquiry. The Commission then go on to point out the disadvantages of a temporary constitution, and suggest that what is wanted is the introduction of a constitution which will be sufficiently elastic as to be capable of adjustment to the particular needs of any given province at any given time. The results of fixing a ten-year period in the Government of India Act, 1919, are sufficiently well known, and in the opinion of this Government there can be no question that it is desirable if possible to establish

a constitution which, instead of needing to be overhauled after fixed periods, will be capable of natural development to suit the needs of each province and of India as a whole

CHAPTER 5.—THE NEED FOR SAFEGUARDS.

4. This chapter deals in a general manner with the need for safeguards in a new constitution, and lays down three main propositions, namely:—

- (1) that the Army must be adequate for defence and for many years to come British troops and British officers with Indian troops will be necessary,
- (2) that there must be a power to step in to preserve law and order and maintain the vital services and that this power should vest in the Governor-General or the Governor, as the case may be, and
- (3) that there must be some means of protecting the interests of minorities and that the only practical means of doing so is to vest the Governor-General and the Governor with general powers.

This Government accept all three propositions subject to anything that is said in later portions of this letter in regard to the means of applying them, and in the case of Nawab Sir Ahmad Sa'id Khan subject also to the views in regard to the Army expressed by him in the extract from a note on that subject which will be found in the appendix to this letter. As the Government of India have not asked this Government for their views on the subject, the other Members of Government do not offer any opinion.

PART II.

CHAPTER 1.—THE PROVINCIAL EXECUTIVE.

Need for Provincial Redistribution.

5. The Commission consider that the present arrangement of provincial areas is not altogether satisfactory and that some re-adjustment is desirable. The recommend

that a Boundaries Commission should be set up to investigate the main cases in which provincial re-adjustment seems called for and to endeavour to work out schemes with a view to seeing how far agreement is possible. This is a matter which does not directly concern this province. Though the province is large in area and densely populated, it contains no obvious or natural line of division and constitutes a territory which is fairly homogeneous in regard both to race and language. A smaller unit would perhaps be more easily administered, but no division could be devised that would not give rise to much opposition. Furthermore, there is at present no public demand for such division. In these circumstances this Government assume that the position of this province would not come within the scope of the Commission's inquiry and on that understanding they do not desire to offer any opinion on the proposal.

Form of Provincial Government.

6. Before the structure of the provincial Government is considered in detail, it is necessary to decide the type of architecture to which it is to conform. Here the broad issue is whether the present dyarchic form of government is to be retained or whether it should, as recommended by the Commission, be replaced by a unitary government in which all division of subjects will be abolished and every subject will be administered by a ministry responsible to the legislative council. The risks involved in the establishment of any system of responsible government in this province are by no means negligible. They have already been described in the memorandum which the Governor in Council placed before the Commission, and it is unnecessary to repeat them here. They have not been lessened by the experiences of the past two years. But, having regard to the opinions expressed on the part of the Governments of other provinces, of the various Provincial Committees, of the Indian Central Committee and of the Commission itself in favour of the abolition of dyarchy and the establishment of a unitary system of government, the United Provinces Government are of opinion that this development must now be regarded as inevitable. They will deal below with the safeguards with which such a system of government must, in their opinion, be accompanied.

Composition of Ministry and its relation to the legislature.

7. This Government agree with the following proposals relating to the composition of the Ministry and its relation to the legislature:—

- (1) That each member of the Ministry should be required to accept responsibility for the whole policy of the Government.
- (2) That it should be open to the Governor, under the restrictions noted below, to include in the Ministry non-officials other than elected members of the legislature.
- (3) That the salaries of Ministers should be fixed by provincial Statute and should only be alterable by a similar provision. (It is presumed that the Statute would deal only with salaries and not numbers of Ministers, the latter being more suitably left to be determined by circumstances.)
- (4) That votes of censure should be admissible only when they apply to the Ministry as a whole.

His Excellency the Governor and the Members of his Executive Council also accept the Commission's view that in the new Governments it may be found useful to include certain minor posts, equivalent to those of Under Secretary in England. His Excellency's Ministers do not see the need for any such posts.

8. The proposal that the Governor should be free to include one or more officials in the Ministry is one on which the opinion of the members of Government is divided. Nawab Sir Ahmad Sa'id Khan and all three Ministers oppose the proposal. Their first objection to it is that it will largely perpetuate the system of Executive Councillors because, as contemplated by the Commission, the official member will not necessarily change with each change of Ministry but may be reappointed as member of one Ministry after another. He will therefore have a different form of tenure from his colleagues. In the second place they feel that the presence of an official member will detract from the solidarity of the Ministry and be a source of weakness to it rather than of strength in the face of the legislature. They fear that just as at present the reserved subjects form a special point of attack in the council, so the matters in

the portfolio of an official Minister will be subjected to special criticism, and that this may embarrass the position of the whole Ministry in the legislature. These two objections are explained in greater detail in the extract from a note by Nawab Sir Ahmad Sa'id Khan which will be found in the appendix to this letter. A further objection that has been made is that the inclusion of an official will effect the numerical strength of the Hindus and Muslims in the Ministry. His Excellency Sir Malcolm Hailey and Sir George Lambert consider that the Governor should be given the widest possible latitude in the choice of his Ministry and that there will be sufficient practical limitations on his freedom of choice without the imposition of statutory restrictions. They are not disposed to accept the objections mentioned above as decisive. In their opinion there will be no real comparison between the position of an official Minister and that of an Executive Councillor. In the first place the appointment of such a Minister will depend on the willingness of the other Ministers to work with an official on a basis of joint responsibility; it would be difficult to force him on a Ministry which expressed itself as unwilling to admit him as a colleague, and the decision as to whether there will or will not be an official Minister would not therefore in practice rest with the Governor alone. Again, if this initial difficulty is overcome, then the distribution of portfolios will be a matter of mutual arrangement between the Governor and the Ministers, and it will certainly not be possible for the Governor, even if he wished to do so, to decide that the official should hold charge of one of the portfolios which has up till now been under a member of the Executive Council. I am to add here that Sir Malcolm Hailey adheres to the view which he placed before the Commission as Governor of the Punjab, when putting forward this proposal in a slightly different form, that there should be no convention under which the official member of the Cabinet would hold charge of any definite portfolio such as Home or Finance. Indeed, his own view is that he should hold charge of a portfolio of minor importance so that he may have time to discharge what Sir Malcolm conceives should be his main function, namely, of acting as an expert adviser on administrative matters to the Cabinet generally. The Commission's observations regarding the retention of official Ministers in a new or reconstituted Ministry have been held to justify

the comparison of an official Minister with a member of an Executive Council. But the Commission have themselves expressly repudiated any resemblance between the two and the main object of their remarks in regard to the retention of an official Minister in a new Ministry appears to have been to try to meet the criticism that while non-official Ministers on resignation can retire into private life, the position of officials will be more difficult and resignation from the Ministry may involve also the closing of their careers. On this point all that need be said is that officials must obviously resign with their colleagues and that their inclusion in the new Ministry will depend not on any *fiat* of the Governor but on practical considerations, of which the most important will be the attitude of the other Ministers who will compose the new Ministry and the attitude of the legislature. It may be added that as the number of Ministers will probably be much greater than that of the present strength of Executive Councillors and Ministers combined, and as the salary attached to the post will consequently in all probability be much less than that of an Executive Councillor, it will be much easier for an official member of a Ministry to revert to his previous post than it would be under existing circumstances for a member of an Executive Council. The question whether an official will be a source of strength or of weakness to a Ministry is for the other Ministers to decide. The fear that he will be a source of weakness is hardly an adequate reason for preventing a Ministry which takes a different view from having the advantage of the advice and assistance of an official. Sir Malcolm Hailey and Sir George Lambert believe that the proposal, besides not being open to the objections urged against it, will have positive advantages both for the Ministers and for the Governor. It is inevitable that many Ministers will have no administrative experience, and it is certainly conceivable that some will realize the advantage of having a colleague who with no superiority of status but from the position of an equal will be available, when wanted, to give advice based on a long and intimate experience of administrative problems. It is also probable that the Governor, whose position will be very different from that of a Governor under the present constitution, will feel the need of having in the Ministry some one with administrative experience on whom he can rely to point out to the Ministry in their daily working the

implications of decisions which they are contemplating and the probable or possible results of such decisions. The administrative machine is a highly complicated one, and it is not to be expected that persons entirely unacquainted with it will be able to ensure a smooth and efficient working without expert advice. It has been suggested that the appointment of a Principal Secretary, who would also be Secretary to the Cabinet, would secure the advantages expected from the inclusion of an official in the Ministry without being open to the same objections. There is indeed something to be said for this proposal in itself as securing to a Governor the means of acquiring the information which will be necessary to him if he is to carry out his duties under the constitution. His Excellency will not, as now, be associated with the current work of the administration, and it is indeed doubtful whether the new relations which will exist between the Cabinet and the Secretaries will permit of the latter having (as now) regular access to the Governor. It is easy to secure to him full information as to Cabinet decisions, but a great deal will take place in departmental work of which he will need to be informed if he is to be in a position to assist Ministers with his advice, or indeed to act effectively where his intervention is necessary. His Excellency the Governor and Sir George Lambert would prefer to have an official Minister, but the other Members of the Government consider that a Principal Secretary would be more in keeping with the general scheme of the new constitution.

9. It has been pointed out that the proposal to permit the inclusion of non-elected persons, as made by the Commission, would leave the Governor free—subject to the superintendence and control of the Governor-General—to appoint a Ministry wholly composed of such persons. There are of course practical considerations which would effectively prevent the Governor from doing any such thing, and the Governor in Council sees no need to include in the Statute a provision restricting the number of non-elected persons to be included in a Ministry. Even though this would restrict the Governor's field of choice and would introduce a greater element of rigidity in the constitution, His Excellency's Ministers would prefer to restrict the number by Statute to not more than one.

10. The Commission found themselves unable to recommend the inclusion in the Statute of any provision for the

inclusion of members of minority communities in the Ministry. His Excellency the Governor and Sir George Lambert agree with the view taken by the Commission that in most provinces prudence, if not necessity, is likely to cause a Governor, with the full approval of the other Ministers, to include at least one Minister from an important minority community. But Nawab Sir Ahmad Sa'id Khan and His Excellency's Ministers would prefer not to leave this matter to be regulated by practical considerations [see extracts A (ii) and (iii) in the appendix]. They argue that in this province the Muslims will secure no more than 30 per cent. of the elected seats in the legislature and will therefore be in a permanent minority. There is at present little sign that the communal factor will in the future count for less in the formation of parties in the legislature than it has in the past. On the contrary, with a more complete transfer of power from an official Government to a popular legislature, and with the proposed removal of the official *bloc*, there is every likelihood that it will count for more. Non-Muslims will be in so large a majority that they may on occasion find themselves independent of the Muslim vote, and it may not be difficult to form a purely non-Muslim Ministry which will be able to rely on the support of a majority of the legislature. These Members of Government therefore would like to see some definite provision made in the statutory rules laying on the Governor the obligation of securing in the Ministry some representation of minority communities, and they ask that if it is found impossible to make such a rule, then at least the Governor's responsibility in this matter should be clearly defined in the Instrument of Instructions. His Excellency's Ministers would like to see Hindus and Muslims represented in the Ministry in the proportion of two-thirds and one-third. The two official members of Government would be glad to find some way of removing the apprehensions of the Muslim minority, for they feel that if this could be effected, the new constitution would start its career in conditions less likely to involve communal discord. But they see more than one difficulty in securing a definite statutory provision for the representation of the minority in the Cabinet. A statutory provision will not be necessary in ordinary circumstances in most provinces and the exceptional circumstances in which it may be needed will be exactly those in which the Governor will

find it difficult, if not impossible, to fulfil the obligation laid upon him. Such circumstances will arise when communal feeling is very strong. If the Governor is then in the position of having to insist, for example, on a Hindu Chief Minister including a Muslim in his Cabinet, the only possible result will be the inclusion of a Muslim who will not have the confidence of his own community and will therefore not be in any true sense representative of it. A further consideration is that any statutory provision would have to be drawn in general terms to apply to all provinces, and there may be provinces in the Governments of which up to the present minority communities have not been represented owing to the fact that they are not of sufficient importance to justify representation. It would clearly be anomalous to impose on such provinces a provision requiring representation which has not been thought necessary up to date. The official members would agree that the Instrument of Instructions to the Governor should include an obligation to attempt to secure representation of the minority in the Cabinet, where such minority is in his opinion of sufficient importance to warrant this. But it must of course be recognized that though this may be of some value in itself, it cannot be in the fullest sense mandatory.

11. The Commission, while expressing the view that there should ordinarily be a Chief Minister, whom the Governor would consult before appointing other Ministers, propose that there should be no requirement in the constitution to make such an appointment. This Government are of opinion that in practice the Governor will ordinarily find it advisable to appoint a Chief Minister in the first instance; he would not himself have power to select his colleagues, but the Governor would find it convenient to select other Ministers in consultation with him. The influence of a Chief Minister will make for unity in the Cabinet and will assist the Ministry in its relations with the legislature. Such an appointment will probably be approved by public men as being in consonance with the usual practice in western parliamentary governments. But on the principle of leaving the constitution flexible, where this can be done, so that it may more easily be made to fit the needs of a given province at a given time, there is no objection to the omission of any constitutional provision prescribing the appointment of a Chief Minister.

Cabinet procedure.

12. This Government do not desire to make any comments on the Commission's observations in regard to the part which the Governor should play in the day-to-day work of the Ministry or in regard to his presence at Cabinet meetings. The latter point is one which is best left to be settled by convention. They agree that he should retain his present power of making the rules of business (which would include provision for regulating the class of cases which would require a Cabinet decision) and that it is desirable that Ministers should be encouraged to reach decisions by mutual accommodation rather than by the counting of votes. It is assumed that if decisions are reached by a majority vote, the Governor would not himself exercise a vote. The proposal that a member of the Civil Service should be appointed to a new post of Secretary to the Cabinet, with special access to the Governor, is less acceptable to them [see extracts B (i) and (ii) in the appendix]. The work would clearly be insufficient to occupy the whole time of any officer and the appointment of a permanent official to discharge only the functions suggested by the Commission would be liable to misunderstanding and might give rise to unnecessary difficulties. All that is required is that the Governor should be kept fully informed of the names of the Ministers present and of the decisions reached at meetings from which he himself is absent. The Governor can provide for this himself in the rules of business.

Over-riding powers of the Governor.

13. In accepting the proposal that dyarchy should be abolished and that the new provincial Government should be a unitary one responsible to the provincial legislature, this Government have also agreed to the need for certain safeguards. In the provincial sphere the most important of these are that the Governor should have power to direct action to be taken otherwise than in accordance with the advice of his Ministers (1) in order to preserve the safety and tranquillity of his province and (2) in order to protect the interests of minority communities. This Government attach great weight to these safeguards. It is not without considerable hesitation that they have accepted the proposal to transfer all subjects and they would not have

found themselves able to do so, if the Governor were to be in the position of a strictly "constitutional" Governor, bound in all circumstances to accept the advice of his Ministers. It is, however, obvious that the Governor's powers to over-ride his Ministers should not be unrestricted and this Government readily agree first that in all such matters the Governor should be subject to the superintendence, direction and control of the Governor-General, and secondly, that the purposes for which these special powers may be exercised should be clearly stated in the Statute. The Commission have suggested five purposes, two of which are fundamental to the peace and good government of the province, and the other three mainly technical. They have proposed that for those purposes the Governor should be given statutory power—

- (a) in the administrative sphere to direct that action be taken other than in accordance with the advice of his Ministers,
- (b) in the field of legislation to secure the passage by means of certification of Bills rejected by the legislature, and
- (c) in the financial sphere to restore by means of certification grants rejected by the legislature.

It will be convenient to consider all these special powers at one time as the criticism has been made that taken together they give the Governor considerably wider powers than he has at present and to that extent will actually restrict rather than increase the measure of responsible government in the provinces. It is necessary to consider each sphere separately as it is not essential—though it might be logical—to give the Governor the same power to over-rule the legislature in matters of legislation and finance as he is given to over-rule his Ministers on purely administrative questions.

14. *Administrative sphere.*—(1) This Government are agreed that it is essential that the Governor should have power to over-rule his Ministers "*in order to protect the safety and tranquillity of the province*".

(2) The second purpose of intervention, as proposed by the Commission, is "*in order to prevent serious prejudice to one or more sections of the community as compared with other sections*". This Government are agreed that the Governor must be given power to intervene in order to pro-

tect the interests of minority communities. They realize the difficulty which a Governor is likely to experience in exercising such a power, and they are impressed by the view that the power is likely to be more effective if his hands can be strengthened by some statutory provision laying a positive obligation upon him. There is good reason to believe that the Muslim community will not be satisfied without some stronger and more effective safeguard than that proposed by the Commission, and this Government feel that every effort should be made to meet the wishes of the Muslims on this point. It is probable that Europeans and Anglo-Indians will share this feeling, if only in view of the fact that the subject of European and Anglo-Indian education, now a reserved subject, will in future lack this protection. This main difficulty lies in drafting provisions which will be at the same time sufficiently general to be suitable for inclusion in a Statute and sufficiently definite to be really effective. The principal matters in which the Muslim community demand safeguards are these,—

- (i) use of the Urdu language,
- (ii) religious rights and usages,
- (iii) personal law,
- (iv) educational facilities,
- (v) representation in local bodies,
- (vi) representation in the public services.

They would like to see provisions included in the Statute which would recognize their special rights in all these matters and state in general terms the principles on which these rights should be given effect to. They point out that guarantees for the protection of minorities have been included within recent years in the constitutions of certain European States, such as Poland, Czecho-Slovakia and Yugo Slavia, and they are not satisfied that similar guarantees cannot suitably be included in the Statute which will regulate the new constitution in India. The Commission have observed that the provisions in the European constitutions have not been of much practical value, and this Government realize that similar provisions in the Indian constitution will be of little use unless a definite obligation to give effect to them can be laid on some authority and unless there is a definite sanction behind them.

The only possible authority will be the Governor, or the Governor-General, as the case may be, as it would be clearly undesirable to make the enforcement of these provisions depend on an appeal to the courts. Such an appeal has been formally provided in some constitutions, *e.g.*, in the British North America Act of 1867 and in the new German constitution, but in India the effort has consistently been to avoid a procedure of this nature, which is likely in practice to prove both contentious and dilatory. The whole matter is clearly one that requires further detailed examination in consultation with the recognized representatives of the principal minority communities, and all that this Government feel called upon to say at this stage is that they would agree to the inclusion in the Statute of provisions of a general nature, provided that the obligation of giving effect to them is definitely laid on the Governor.

(3) The third purpose is "*to secure the due fulfilment of any liability of Government in respect of items of expenditure not subject to the vote of the legislature*". Some doubt exists whether a power of intervention for this purpose is really required, and it has been suggested that the object could be secured by making provision in the Statute by which all expenditure of the kind referred to will be made a first charge in provincial revenues. It is doubtful, however, whether such a provision would, in the absence of the further power suggested by the Commission, definitely secure the actual payment of these sums.

(4) The fourth purpose is defined by the Commission in these words "*to secure the carrying out of any order received by the provincial Government from the Government of India or the Secretary of State*". It is presumed that this provision applies primarily to the enforcement of the orders received by the local Government from the Government of India in the matters included in the categories given in para. 182 of the Commission's Report. To this extent this Government agree that the power is necessary; and they also accept the view, advanced by the Indian Members of the Government, that the Statute should make it clear that the powers of the Government of India (and consequently those of the Governor also) in this respect should be limited to matters included in those categories. It is not clear why the Commission have included a reference to orders given by the Secretary of State. As shown

at para. 350 of the Commission's Report, the Secretary of State would, in the provincial sphere, issue instructions only on those matters in which special powers are reserved to the Governor, and it is presumed that instructions on these points would reach him through the Governor-General. They would, as shown above, be defined by Statute, and would not extend to a general power of intervention over the whole sphere of provincial administration save presumably in the circumstances described in paras. 65 and 98 of the Report, *i.e.*, when the normal constitution is suspended. This also is a matter which will require clear definition in the drafting of the Statute.

(5) This Government agree that the Governor must be given special over-riding powers for the fifth purpose, namely, *to carry out any duties which may be statutorily imposed on his personally.*

This Government desire to add that in drafting the Statute care should be taken to distinguish the matters on which the personal powers of the Governor are final from those in which he is to be subjected to the control and directions of the Governor-General. The existing Statute is deficient in this respect. The point will become of considerable importance in the future, owing to the fact that the Governor will exist as a statutory authority apart from the local Government.

The Commission have anticipated the objection that these special powers to be given to the Governor are greater than those at present exercised by him in relation to transferred subjects. The objection has no real foundation. At present a Governor has, under Sub-section (3) of Section 52 of the Government of India Act, an unlimited and uncontrolled power to reject the advice of his Ministers and direct action to be taken otherwise than in accordance with that advice whenever "he sees sufficient cause to dissent from their opinion". Under the Commission's proposal he will be empowered to exercise the special power only for the specified and limited purposes dealt with above.

15. *Legislative sphere.*—In the opinion of this Government the Governor should be given power to secure legislation for the first of the five purposes referred to in the previous paragraph. It is however doubtful if any occasion would arise for his securing legislation under the purpose described as (3), while as regards (4) the Government of India should be able to secure their position by

virtue of their power of co-extensive legislation. No occasion seems in practice likely to arise for legislation to secure the purpose described as (5). In regard to the need for an affirmative power of legislation for the second purpose, namely, to secure the protection of minority interests, there is some difference of opinion among the Members of Government. The exercise of the power of the Governor for the protection of minority interests would ordinarily take the form of vetoing legislation prejudicial to such interests or in the alternative, utilizing the power of returning the Bill for reconsideration, or reserving it for consideration by the Governor-General, it being assumed that provisions similar to those embodied in Section 81-A of the Act of 1919 will be repeated in the new Statute. His Excellency's Ministers, however, would like to see an affirmative power of legislation placed in the hands of the Governor. The other Members of Government doubt whether this is a power which the Governor would in practice ever be able to exercise, but they are quite prepared to agree that it should be given him (subject to its being found possible to secure a suitable form of definition) if important minority communities press for it generally. It must, however, be realized that it would give to the Governor a somewhat wider power than he has at present, since he could not, under his present powers, secure by certification the passage of a Bill relating, for example, to Muslim or depressed class education, whereas under the Commission's proposal he would be able to do so "in order to prevent serious prejudice" to either of these communities as compared with other communities. In para. 43 below this Government make a new suggestion for the protection of minority communities from discriminatory legislation, namely, that a provision on the lines of section 67 (2) (b) of the Government of India Act should be applied to legislation in provincial legislatures.

16. *Financial sphere*.—This Government agree that the Governor should have the power of restoring rejected grants for the first, second, fourth and fifth of the purposes mentioned in para. 14 above. This power is not necessary for third purpose which refers only to items of expenditure not subject to the vote of the legislature. They also agree that he should have the full financial powers conferred by proviso (b) of section 72-D (2) of the Government of India Act for exercise in the case of emergency. A reference to

para. 65 of the Report would seem to show that it is intended that this emergency power should only be utilized after a statutory declaration by the Governor that a state of affairs has arisen under which the government of the province could not be carried on under the ordinary constitution provided in the Statute. That declaration would be reported to Parliament. In effect, the Governor would in these circumstances replace the Cabinet for all purposes and a question arises whether the terms used in the present Act, *viz.*, "for the carrying on of any department" would in that case be sufficiently comprehensive. They would probably prove to be so if the Statute gave him final power to define the expenditure necessary for this purpose, but some variation of the language used might perhaps be found desirable, for it might happen that—if the period of this special use of power were prolonged—he might have to meet a considerable variety of expenditure, including non-effective charges, grants to local bodies and even payment of loans to which the local Government stood committed. It is certainly desirable that the Statute should make it clear that the Governor's declaration of the existence of a state of emergency should be final, and not open to question in the courts.

17. The Commission recommend that the Governor should have a power of emergency legislation by ordinance over the whole provincial field. A comparison of paras. 98 and 65 shows that it is intended that this power should come into being only in the circumstances described above, *i.e.*, after a declaration of the suspension of the normal constitution. It is of course intended that in issuing such ordinances the Governor should act under the supervision and control of the Governor-General, but it is not made clear whether the ordinances would be made subject to the procedure which now prevails in regard to Regulations (section 71 of the Act). If that procedure is enforced, it must be assumed that the authority of the Governor-General would be substituted for that of the Governor-General in Council, since the Governor will in this case take the place of the local Government. It may be open to some doubt whether the ordinance-making power need actually extend "over the whole provincial field"; it would probably prove sufficient if the Governor were given the same power in regard to emergency ordinances as in regard to emergency expenditure.

18. The Commission have not proposed to give the Governor any power of intervention to secure the financial stability of the province. They consider that so wide a power of intervention would hinder the growth of responsibility, and that the Government of India's power to control the provincial Government's borrowing will provide a sufficient corrective. On this point the view of this Government is that although intervention might perhaps be most usefully exercised before any question of borrowing arises, a power to intervene in the interests of financial stability would be so wide that it might be difficult to justify it. Perhaps the best guarantee of financial stability would be secured by a convention that the authority controlling borrowing (para. 54 below) should refuse to sanction loans designed to meet expenditure other than that of a true capital or productive nature.

CHAPTER 2.—THE PROVINCIAL LEGISLATURE.

19. In dealing with this chapter of the Report I am to state in the first place those recommendations with which this Government agree and in regard to which they have no comments to make, and thereafter to deal with those proposals which do not admit of such summary disposal. This Government are prepared to accept the following proposals:—

- (1) That the normal statutory life of provincial legislatures should be extended to five years and that the Governor's power of extending this statutory period should be limited to the purpose indicated in para. 135 of the Report, namely, to bring the life of the council to an end at the same time as the life of the Federal Assembly.
- (2) That the size of the legislative councils should be increased. His Excellency's Ministers would prefer a council with a membership not exceeding 200. The other Members of Government would not object to the present membership being doubled.
- (3) That separate electorates for Europeans should be retained and that the present proportion between the number of European general seats and the number of Indian general seats should be maintained.

- (4) That the present proportion of Muslim representatives should be maintained.
- (5) That the official *bloc* should be removed and that the new Statute should make provision for the presence of officials, or other experts, without a right to vote, in committees of the legislature.
- (6) That no special arrangement should be made to secure the election of women members either by prescribing that a certain number of seats must be filled by women or by reserving seats for women, but that women candidates should be given "a fair field and no favour".
- (7) That if the Ministry includes non-elected members such Ministers should become *ex-officio* members of the legislature.

This Government also accept the proposal that subject to the safeguards recommended in para. 25 the legislative council should be empowered after a period of ten years to pass constitutional resolutions providing for changes in the arrangement of constituencies, in the franchise and methods of representation. His Excellency's Ministers think such resolutions should not apply to methods of representation (see extract C in the appendix). Their colleagues see no need for the exclusion of methods of representation provided that the "two-thirds" majority suggested by the Commission will be two-thirds of the actual number of members in each case and not two-thirds of the members voting. An obligation would of course fall on the Governor to exercise a discretion where the interests of a community represented by small numbers in the council were affected, such for instance as the European or Anglo-Indian community. But the proposals of the Commission make provision for the exercise of this discretion.

20. This Government also accept the Commission's proposals in regard to the representation of Anglo-Indians and commercial bodies with the slight modifications explained below. In the case of Anglo-Indians they would prefer to increase the representation in proportion to the increase in the total membership of the council. It seems undesirable to increase the number of European and Indian Christian seats in proportion to the increase in the total membership of the council and at the same time to leave Anglo-Indians with their existing repre-

presentation of only one member. In the case of the two commercial constituencies, on the other hand, they would retain the existing number of members. The commercial bodies represent an interest rather than a community, and the important thing is that the interest should have a means of voicing its views in the council. The three seats which are at present given are sufficient for this purpose and this Government see no need to increase them to six.

Communal representation.

21. This Government are not concerned with the representation of Sikhs, non-Brahmins or Mahrattas, and in their consideration of this question of communal representation propose to confine themselves to the cases of Muslims, Indian Christians and depressed classes. They are in full agreement with the view of the Commission that the subject of communal representation is pre-eminently one which the rival communities should settle among themselves, but that in the absence of any new agreement between Hindus and Muslims communal representation for the latter community must be continued in this province for the present. The Commission have considered three different methods of securing such representation, namely, (1) by means of a system of reserved seats, (2) by means of a system of reserved seats combined with a system of previous selection of candidates by Muslim electors alone, and (3) by means of a system of proportional representation. They have rejected the first and third of these methods, and this Government agree with their view that the first would be entirely unacceptable to the Muslim community generally and that the third is at present impracticable. The Commission have suggested that the second method, called by them the system of "primaries", should be further considered by both communities to see if it provides a basis of agreement. This Government are not yet in a position to state what the views of the Muslim community generally are likely to be on this question, but I am to say that Nawab Sir Ahmad Sa'id Khan and all His Excellency's Ministers are opposed to the introduction of this system of election, and that this Government have reason to believe that that view would be endorsed by a majority of Muslims in this province. The Government as a whole accept the view that in the absence of agreement between

the two great communities separate Muslim electorates must be continued.

Representation of depressed classes.

22. At present the Governor nominates one member to represent classes which in his opinion are depressed classes. In his report to the Commission the Governor in Council recommended that in future the Governor should nominate five persons to represent depressed and backward classes. The Committee of the United Provinces legislative council agreed that representation of both these classes should be by nomination and recommended that the number of representatives should be fifteen. The Commission have gone far beyond these recommendations. They reject the system of nomination on the ground that it provides no opportunity for training these classes in politics. They also reject separate electorates on general grounds of principle and also on two special grounds, namely, (1) that exact definition would be difficult and (2) that such electorates are likely to militate against the rise of these classes in the social scale. They therefore propose that seats should be reserved in the non-Muslim constituencies to be filled by the votes of the non-Muslim general electorates, and that the Governor should be required to certify which candidates are authorized to seek election. They realize that difficulty may for some time be experienced in finding sufficient suitable candidates among the depressed classes themselves, and suggest that, if this difficulty does arise, the Governor should for ten years, and in respect of half the number of reserved seats only, have the power either (1) to allow other than members of such classes to stand for election on their behalf, or (2) to nominate such other persons to reserved seats. Finally, the Commission recommend that the number of reserved seats should be fixed on the following principle—the proportion of the number of reserved seats to the total number of seats in all the Indian general constituencies should be three-fourths of the proportion of the depressed class population to the total population of the electoral area of the province. The Government of India will not expect this Government at the present stage to enter into a detailed and exhaustive examination of this difficult question. The matter is one which will require careful investigation by the Franchise Committee which the Commission recommend. This Gov-

ernment therefore confine themselves to an expression of opinion on the main principles involved.

23. The Commission's proposal, as understood by this Government, would result in the return to the legislature of this province of about forty representatives of the depressed classes. The basis of this proposal is not the probable electoral strength of these classes but their total strength. The Commission have made no attempt to estimate their electoral strength. All that they say on this subject is that "there are, even with the present restricted franchise, a sufficient number of depressed class voters to make methods of election possible, at all events, in many areas". This Government have not the necessary information to enable them to say whether that statement is or is not accurate so far as this province is concerned. Their own opinion is that if the term "depressed classes" is defined with some strictness and held to include only the members of those castes which follow an occupation which is generally regarded as degrading, the number of persons belonging to those classes who are at present enfranchised will be found to be comparatively small. Even if the franchise be lowered, so long as the main qualification is the payment of rent for land or of land revenue, the number is likely to remain comparatively small, for the reason that the main occupation of these castes is not cultivation. Speculation in a matter of this kind is however useless and actual facts must be ascertained. The Governor in Council is not prepared to accept the proposal that the representation of these classes should be based on their total strength. This would give them a representation out of all proportion to their political importance. It is therefore essential to find out what the probable voting strength of these classes will be on whatever franchise is to be fixed for the general electorate—for there can be no question of a special franchise—and thereafter to consider what number of representatives can suitably be allotted. This Government propose therefore to initiate inquiries immediately so that they may have some material which they can put before the Franchise Committee and which may form a basis for their own proposals.

24. This Government also disagree with the Commission in regard to the method of election. They agree that it is desirable to introduce some system of election in place of nomination, but they dislike the proposal that the

election should be made by the non-Muslim electorate to a number of reserved seats. As explained in the extract which will be found in the appendix, from a note by Raja Bahadur Kushalpal Singh, this is not what the depressed class leaders themselves ask for, and it is not likely to satisfy them. The Commission themselves admit that separate electorates are more likely to secure the return of an adequate number of persons who enjoy the confidence of the depressed classes. That admission suggests the vital objection to their proposal, namely, that in the general non-Muslim constituencies the depressed class voters will be far out-numbered by the other voters and the members returned will be those who are supported by the majority of voters, as distinct from the depressed class voters. The Commission's proposal will not in fact give the depressed classes members who will be trusted by them to represent their special interests. The alternative is separate electorates. These no doubt have their own disadvantages, but if the initial difficulty of creating an electorate can be overcome, this Government consider that these classes should not, on a purely theoretical ground, be denied a privilege which has already been given to Muslims and Europeans and which it is proposed to give to Indian Christians and Anglo-Indians. The objection that such an electorate will involve stigmatizing each elector and will militate against his rise in the social scale is not one that is likely to weigh with those principally concerned, and if the representatives in the legislature must be stigmatized, and even the Commission's proposal involves this, there seems no reason why the voters should not be. It is at least arguable also that the position of these classes is more likely to be improved by securing real representation in the local legislature than by the ineffective form of representation suggested by the Commission. The real difficulty lies in forming an electorate. This Government are not at present prepared to say more on this point than that they propose to investigate the matter in the hope that they may be in a position to put concrete proposals for an electorate before the Franchise Committee.

Indian Christian representation.

25. The Indian Christian community is at present represented in this province by one nominated member. The Commission propose that representation should in

future be by election, they prefer a system of reservation of seats to separate electorates and they recommend that the number of representatives be increased from one to two. The total number of Indian Christians in this province at the census of 1921 was 169,000. The number of electors, even with the extended franchise, will therefore be comparatively small. No figures are at present available showing the distribution of Indian Christians among the various districts of the province, but it can be said with confidence that it will not be possible in this province to make a satisfactory arrangement whereby two seats will be reserved for Indian Christians. If nomination is to be substituted by election, then it seems practically inevitable that a separate electorate should be established. This Government have no objection to the increase in the number of representatives from one to two

University representation.

26. The Commission obviously are not convinced of the desirability of retaining university representation and have confined themselves to a halting expression of opinion that the existing university seats should be retained. There is some division of opinion on this subject among the Members of this Government. His Excellency the Governor and the two Members of the Executive Council see no advantage in retaining the one university seat in this province. University members do not represent any special interests and the university electors undoubtedly receive adequate representation through the general constituencies. His Excellency's Ministers feel some difficulty in agreeing to the withdrawal of a privilege at present enjoyed. They would therefore prefer to retain the existing seat. They would not, however, confine it to the Allahabad University, but would either have a joint electorate formed from the three provincial universities of Allahabad, Lucknow and Agra, or in the alternative they would allow each university to elect the member in turn.

Representation of labour.

27. Labour at present receives no special representation in this province. The Commission recommend that the duty of drawing up rules for securing labour representation should be imposed on the Governor and they

would leave it to him to resort to nomination if he considers a system of election impossible. As regards the number of labour representatives, they content themselves with expressing the view that, if suitable members are available, the proportion of labour representation should be increased. The position in this province in regard to the representation of labour interests was fully explained in this Government's report to the Commission, and I am to say that this Government do not anticipate that a system of election will be possible. In the absence of any labour organizations which are capable of putting up a panel of candidates from whom selections could be made, this Government at present see no alternative to a system of nomination pure and simple, and they are prepared to accept the Commission's proposal which will probably result in the Governor nominating one or two labour representatives.

Representation of great landholders.

28. The great landholders of this province have special electorates which return six members to the legislative council. On the ground that their standing and reputation and the influence which they exert in their own localities have enabled them to share a large number of seats in the general constituencies and are therefore such as to render special protection unnecessary, the Commission have, subject to a certain safeguard to secure them their present representation, recommended the withdrawal of their special representation. This Government are unable to endorse the Commission's recommendation. Though all the Members of Government hold the same views on the general principles involved, I am to refer the Government of India to the extracts E (i) and (ii), which will be found in the appendix, from notes by Nawab Sir Ahmad Sa'id Khan and His Excellency's Ministers. Government hold that the representation which the great landholders have been able to secure has not been disproportionate to their political importance in present conditions. It is almost inevitable that as the electorate gains political experience, it will tend to prefer representatives drawn from sources other than the great landed families, and the need for special representation is likely to increase rather than decrease. It is peculiarly unfortunate that the Commission have singled out this one class to be deprived of a privilege

at present enjoyed, while at the same time recommending the grant of special representation on a wider scale for some classes of little political importance and the retention of the special representation of another class—university graduates—to which the arguments used in the case of the landholders apply with even greater force. This Government are unanimously and strongly in favour of the retention of the special representation of the great landholders at the existing ratio, and the Governor in Council desires to repeat the recommendation placed before the Commission, which was that the number of representatives be increased to twelve, seven to be elected by Agra landholders, four by the Oudh taluqdars and one by the Oudh landholders other than taluqdars, and that all these representatives except the last be elected by proportional representation on the system of the single transferable vote. His Excellency's Ministers would go further and give the landholders sixteen representatives, as recommended by the Indian Central Committee, but, differing in this from that Committee, would allot ten seats to be filled by the Agra Province Zamindars' Association, five to be filled by the British Indian Association, and one by Oudh landholders other than taluqdars. I am to add also that the Ministers consider that similar bodies of equal status in other provinces should also return their own representatives by separate electorates to both chambers of the provincial councils and also to the Federal Assembly and the Council of State.

Nominated members.

29. The Commission propose that, apart from a power to nominate members representative of certain special classes where election is impossible or fails to give a specified amount of representation, the Governor should have a discretionary power of nomination which should be used particularly to ensure more adequate representation of women and labour. They would fix the number of members who may be nominated at between 5 and 10 per cent. of the total fixed seats. In a council of 250 this would give the Governor power to nominate between 12 and 25 members. Apart from officials the Governor in this province now has power to nominate only five members and of these three must be representatives of special interests. There are, in the opinion of the Governor in Council, obvious disadvantages in leaving the Governor so general

a power as the Commission propose. However defensible such a power is under the existing constitution, it will clearly become more and more anomalous as the constitution approaches one of complete responsible government. His Excellency in Council is therefore in favour of retaining the power of nomination only to a very restricted extent and in order to secure the representation of definite interests. He sees no reason to grant any special power of nominating women as such. If this Government's proposals in regard to the representation of great landholders are accepted, then there will be no need for nomination in their case. This Government also hope that it will be possible to secure the representation of Anglo-Indians, Indian Christians and depressed classes by election. The only special interest which it will not be possible to get represented by election is that of labour, and this Government have already agreed above to the nomination of one or two labour members. The Commission have said nothing about the nomination of expert members. This Government consider that the Governor should have the power at present conferred by proviso (b) to sub-section (2) of section 72-A of the Government of India Act to nominate not more than two persons having special knowledge or experience of the subject matter of any Bill which is before the legislature. Such persons would not necessarily be officials but might, to take one example, in the case of a Bill to regulate religious and charitable endowments, be persons who have had actual experience of the management of such endowments. This Government would also allow the Governor to nominate one person (who would generally be an official) to act as legal adviser to the Government and to assist in dealing with the drafting of Bills during their progress through select committees and the like. The Governor in Council would therefore prefer to restrict the Governor's power of nomination to the following three purposes:—

- (1) to secure representatives of labour interests,
- (2) to secure the assistance of experts, and
- (3) to secure the assistance of a legal adviser and draftsman.

His Excellency's Ministers would, however, have no objection to the Commission's proposal to give the Governor power to nominate members up to 5 or 10 per cent. of the

total membership, on the understanding that he would not be restricted to use this power to secure the representation of any special interests such as those of women or labour.

Powers of legislation and finance.

30. The special powers of the Governor in relation to legislation and finance have been dealt with in paras. 15 to 17 above. This Government accept the remaining proposals in regard to legislation and finance contained in paras. 96 to 98 of the Report.

CHAPTER 3.—THE FRANCHISE.

31. After referring to the variety of views held in India in regard to the extension of the franchise and to the way in which the views held by various classes and communities are influenced by the manner in which each such class or community is likely to be affected by extension, the Commission have rejected adult franchise as impracticable at the present stage and have recommended that a Franchise Committee should be appointed with instructions to frame schemes which would enfranchise about 10 per cent. of the total population. They have further suggested that a special literary qualification should be introduced and also a special qualification for wives and widows of persons qualified for the franchise. Finally, as a complement to their proposal that the legislative council should be permitted to revise the franchise by constitutional resolutions, they have recommended that after an interval of fifteen years a second Franchise Committee should be appointed to review progress and, if 20 per cent. of the population have not by then been enfranchised, to devise means to accelerate progress. The views of this Government on each of these proposals are explained in the following paragraphs.

Proposals for extension.

32. The Commission base their proposed extension of the franchise on the following grounds:—

- (1) That the existing franchise is too limited to provide the material from which to build an adequate scheme of representative government.
- (2) That many of those who are at present below the line of qualification are as fit to exercise the

vote as those who are above it, and, even if they do not ask for it, the vote must be regarded as an instrument of political education and as a source of political influence.

In this section of their Report the Commission have not referred to the size of constituencies. But they have done so in paras. 205 and 206 of volume I, and it would appear that one of the reasons which influenced them in proposing so large an extension of the franchise was that such an extension would render possible a reduction of the size of constituencies and a closer touch between members of the legislature and the voters who return them. Their ideas on this point are the outcome of their own experience derived from a country which is predominantly industrial. It may be questioned whether they apply with the same force to a country which is predominantly agricultural and in which 90 per cent. of the people live in an immense number of villages scattered over the country-side. For practical purposes it can make little difference in the relations between the member and his electors whether the constituency contains 2,000 villages or 1,000, and any reduction in the size of constituencies that is within the bounds of possibility is not going to make any real difference from this point of view, nor give either the member or voter a more accurate appreciation of the true meaning of representation. While therefore this Government are not opposed to some extension of the franchise in the hope that the vote may in time prove to be an instrument of political education and a source of political influence, they see no adequate reason for so large an immediate extension as that proposed by the Commission. This Government stated to the Commission that the great majority of the electorate in this province are not only illiterate but also ignorant of and without interest in the affairs of the province as a whole. They do not, however, deny that there is some force in the argument that many of those who are at present without the vote are as fit to exercise it as the majority of existing voters. It is therefore not unreasonable to extend the franchise to a considerable extent, but care must be taken not to make it so large as to place an undue strain on the polling machinery. This Government have not immediately available all the information which they would like to possess before expressing a considered opinion in regard to the extent to which the franchise can be widened, and for

that reason they desire to confine themselves to a provisional expression of opinion on this point. According to figures collected in 1920 the lowering of the principal rural qualifications to a payment of not less than Rs. 25 rent in the case of tenants and not less than Rs. 10 land revenue in the case of landholders will add about $1\frac{1}{4}$ million to the rural electorate and thus double the number of persons enfranchised by virtue of rent or revenue paying qualifications. This Government are not at present disposed to recommend any larger extension than this. But they would agree to the lowering of the other rural qualifications and also of the urban qualifications, where this can suitably be done, to such a degree as to qualify roughly double the present number of electors. It may be objected that the increase thus proposed is only 100 per cent. instead of the 200 per cent. recommended by the Commission. The reply to that objection is, firstly, that, as already stated, the argument that smaller constituencies will bring member and voter into close touch does not apply to Indian conditions with the same force as it does to English conditions; secondly, that the franchise necessary to secure this Government's 100 per cent. increase will be approximately the same as that required for the Commission's higher increase with the exception of the special women's qualification which this Government for reasons given below are not prepared to accept; and, thirdly, that it would be unwise to lower the qualifications still further at the present stage.

Literary qualification.

33. This Government are divided in their views on the proposed literary qualification. His Excellency the Governor and the Members of the Executive Council are opposed to this innovation. His Excellency's Ministers accept the principle of the Commission's proposal, but two of them would prefer that the actual qualification should be somewhat different. Hitherto the main principle of the franchise has been based on some property qualification, and until it is shown that it is impossible to retain that principle and at the same time widen the franchise to the extent desirable, the Governor in Council would prefer to have no purely literary qualification. The Commission suggest two reasons in support of their proposal, namely, that it would bring in voters of better education, and that it would provide for an increase in the number of electors

in proportion to the spread of education. In reply to these reasons it can be argued that the test proposed is so low that it will not bring in really educated men and that the majority of men who are educated have, and in future may be expected to continue to have, a property qualification of some kind or other. It is, however, true that the present qualifications disfranchise many members of joint Hindu families, and for this, as well as for general reasons, the Ministers would like to see a literary qualification introduced. Nawab Muhammad Yusuf and Maharaj Kumar Mahijit Singh would extend the franchise to those who have passed the matriculation or other equivalent examination or a recognized proficiency examination in a vernacular or classical language. Raja Bahadur Kushalpal Singh would accept the qualification proposed by the Commission.

Special qualification for women.

34. The Commission have expressed considerable concern at the small number of women who are enfranchised and a desire to see a substantial increase in the present ratio of women to men voters. In order to effect this they have suggested that it may be found possible to add to the present qualifications two others, namely, (i) being the wife, over 25 years of age, of a man who has a property qualification to vote, and (ii) being a widow over that age whose husband at the time of his death was so qualified. In addition they would apply their proposed educational qualification to women over 21 years of age as well as to men. These proposals are of a far-reaching nature and must be considered in relation to existing facts. In this province the great majority of the voters are ignorant and illiterate villagers. Whatever can be said of their competency as voters it can hardly be questioned that the wives of most of them are even more ignorant and illiterate and that many of those who are of a better status would be prevented by social customs from exercising the vote. The practical result of the proposal would indeed be to give to the low caste Hindu voter, whose wife is able to go to the poll, a second vote and thus give him twice the voting power of many of the higher caste Hindus and also of many of the Muslims. In the opinion of this Government the means of extending the women's franchise can best be left to be dealt with by the people themselves under the powers which it is proposed to grant to the new legislative councils.

Election expenses.

35. The Commission recommend that suitable limits should be defined and enforced for election outlay. The existing electoral rules for this province require every candidate to make a return of his election expenses under certain specified heads, but they lay down no limits and it is well known that these returns afford no true indication of the actual expenditure incurred by candidates. The Commission consider that the absence of limits gives an unfair advantage to candidates who can afford to spend freely and is an obvious encouragement to corruption. It is notorious that some candidates have spent very large sums on elections and that much of such expenditure has been of a nature which might be described as illegal. As regards legitimate expenditure the position is that there is undoubtedly room for a considerable increase in expenditure on such matters as election literature, meetings, canvassing, etc., and Government have not at present sufficient material on which to base proposals for the imposition of limits. This Government, therefore, consider that further experience should be awaited before any attempt is made to impose such limits.

CHAPTER 4.—SECOND CHAMBERS.

36. The Commission were not able to agree on the subject of second chambers in the provinces. Three provincial Government have approved and five opposed the establishment of such chambers. The Indian Central Committee, while opposing the introduction of second chambers generally, have recommended the creation of such a chamber in this province tentatively for a period of ten years. The United Provinces Provincial Committee unanimously recommended the creation of a second chamber in this province. The question is therefore one on which there is considerable difference of opinion. The Members of this Government are however unanimously in favour of the establishment of a second chamber in this province. Nawab Sir Ahmad Sa'id Khan and His Excellency's Ministers have recorded separate notes in favour of the proposal from which extracts will be found in the appendix. The following are the grounds on which the proposal can be justified :—

- (1) The natural development of the provincial constitution will result in an increasing restriction of

the special powers of the Governor until these powers ultimately disappear. So long as these powers remain there may not be a complete case for the establishment of a second chamber, but with the gradual disappearance of these powers the case will become increasingly strong. It is clearly undesirable to wait until the Governor's powers have completely disappeared before creating such a chamber, as the result of this would be that minority communities might be deprived of the protection of the Governor before being given any other form of protection. Furthermore, the whole principle of the new constitution, as proposed by the Commission, is that its future development should be natural and gradual and not by well-defined stages. There is thus no future revision of the constitution in contemplation at which the introduction of a second chamber might be further considered. It is therefore desirable that such a chamber should be created now when the constitution is under revision.

- (2) A second chamber may in certain circumstances obviate the use of the Governor's special powers. In so far as it does so, the extent of the autonomy enjoyed by the province will be increased and the position of the Governor will at the same time be strengthened. The more the Governor is able to keep himself outside of the government machine and the more he can avoid intervention the stronger will his constitutional position become and the more effective his intervention when the need for it arises.
- (3) A wide extension of the franchise is likely to cause a very natural apprehension among those who have a large stake in the affairs of the province and with whom in the past has lain the predominant share of political power. These classes fear that they will not be able to obtain adequate representation in future conditions. It is important for the welfare of the province that the legitimate interests of these classes should be protected and that they should have a feeling of security and of confidence in the

administration. The establishment of a second chamber may not achieve all that they expect of it, but it will, in the opinion of this Government, be a stabilizing influence and assist in securing general confidence in the new constitution.

Another point which, if not exactly a reason for introducing a second chamber, is an important practical consideration is that there are in this province classes from which such a chamber can suitably be constituted. The exact constitution of the chamber must be left for future consideration, but the provisional view of this Government is that the chamber should have a total membership not exceeding 50 and should contain a majority of elected members who should be directly elected on a high franchise. The same communal proportions would be applied to the upper as to the lower chamber. In the opinion of the Governor in Council there should be no representation of special interests, for example, great landholders or commercial bodies, in the second chamber but His Excellency's Ministers would give special representation to great landholders. No official element will be possible as it would obviously be impracticable to allow officials freedom of vote, and if the upper chamber is to exercise a moderating influence, the presence of officials voting in accordance with the views of Ministers would not help to achieve this object. The relations between the two Houses should be those at present existing between the two Houses of the Indian legislature. It will be desirable that the upper House should be represented in the Ministry and this Government hope that if such a House is created the Governor will always find it possible to secure to it some representation in the Ministry, though they do not consider that it would be possible to make any statutory provision to this end.

Expert revising body.

37. This Government would like to have had before them a fuller exposition of the exact composition and functions of the small expert body which the Commission suggest should be created "to report on the final drafting of measures and to call attention to any points of conflict with existing legislative or administrative arrangements". They agree that there is much room for improvement in the framing of provincial legislation and also that there is need for the better understanding of the exact implications of

legislation by the members of the legislature. But they are of opinion that what is really required to secure better drafting is that the provincial Government should have a trained draftsman who would not only make the initial drafts of Bills but would also be a member of the legislature and thus available to follow every stage of the Bill in its progress through the legislature. To secure the second object which the Commission appear to have had in mind expert knowledge of administration rather than of drafting would seem to be required, and the presence of experts on select committees, suggested by the Commission in para. 86, might, be made use of to bring out the real effect of proposed legislation and the administrative considerations involved by its passage.

PART IV.

CHAPTER 1.—THE CENTRAL LEGISLATURE.

38. No part of the Commission's scheme involves a more radical departure from existing arrangements than their proposals for the constitution of the Lower House of the Central Legislature. Put briefly, these proposals are that that House should be called the Federal Assembly, should have a fixed life of five years, and should be composed of from 250 to 280 members as follows:—

- (1) the members of the Governor-General's Executive Council *ex-officio*,
- (2) not more than twelve other official members nominated by the Governor-General,
- (3) members elected on a system of proportional representation by the legislative councils of Governors' provinces, each council electing approximately one member for every million inhabitants of the province,
- (4) eight members elected or nominated to represent minor provinces, and
- (5) eleven members nominated by the Governor-General to represent backward tracts, and possibly two to represent Anglo-Indians.

This Government agree with the proposals that the Assembly should have a fixed life of five years and that the representation of each province should be determined on the basis of population. In regard to other points in the

scheme proposed by the Commission there is some difference of opinion. Nawab Sir Ahmad Sa'id Khan and His Excellency's Ministers approve of the increase in the membership of the Assembly to 250 or thereabouts. But His Excellency Sir Malcolm Hailey and Sir George Lambert are unable to find in an Assembly of the size suggested, with an official representation amounting to twelve nominated official members, any promise of that stable Central Government which the Commission predicated (Report, para. 178) nor any recognition of the fact that "it is on the strength of the central administration that the peace and safety of India ultimately depend" (para. 29). The picture which they see is that of an executive which must inevitably be in a position of pathetic impotence within the legislature, and a legislature which is bound to be in perpetual quest of means to reduce and, if possible, to nullify the authority of the executive. So far from gaining in strength or stability by the change proposed, the central administration will occupy a position inferior to the markedly unfavourable situation in which it stands at present. It may be that the Commission felt the difficulty of giving it the position which on their own showing it ought to occupy, but the reasons advanced for advocating a change which must involve a worsening of that position are entirely unconvincing. When we are told that it is desirable to provide at least one member for each million inhabitants, the reply can only be that this number itself is already in the region of the astronomical, and there is no greater reality of representation if the figure is fixed at one million than if it is fixed at two million. The Commission are once again obsessed by the fallacies of an analogy drawn from a compact area closely inhabited by a people largely of an urban and industrial character. In regard to the system of election this Government are also unable to make a joint recommendation. His Excellency Sir Malcolm Hailey adheres to the view taken by him as a member of the Franchise Committee, now strengthened by ten years experience of the existing system both as a Member of the Government of India and as the Governor of two separate provinces, that election should, as proposed by the Commission and for the reason given by them, be indirect. Under the existing system of direct election the members of the Assembly may have illustrated types of Indian opinion, but they have not reflected the views held by majority parties in the provincial legislatures. In a federal constitution it

is imperative that the provincial representatives should be made to realize that they sit in the Federal Assembly solely to represent the interests of their provinces and there is much more hope of this end being achieved by indirect rather than by direct election. Sir George Lambert shares this view. Nawab Sir Ahmad Sa'id Khan has no personal objection to indirect election, but feels that it is strongly opposed to Indian sentiment. The views of His Excellency's Ministers are explained in extract G in the appendix. They would prefer a system of direct election; but they recognize the force of the Commission's arguments against such a system in a federal constitution and, if a system of indirect election is considered inevitable, they would like to give it a broader basis than the Commission propose.

39. If the system of direct election is retained, the existing system of communal representation must also be retained. If a system of indirect election is introduced then proportional representation becomes a possible alternative to the communal system. The arguments advanced in favour of proportional representation is that it is likely to secure to the principal minority communities an adequate share of representation without placing an open emphasis on religious or racial differences. All the provincial representatives will be answerable to the same constituents, and they may thus be expected to have a feeling of unity which communal representation cannot give. Those who are opposed to the system argue that it is uncertain in its results and that it will not really mitigate religious and racial animosities, since each group in the provincial legislature will necessarily give their first votes for their own men. There is a real fear among Muslims that the system will not secure to them what they consider to be their due share of representation. A further disadvantage of the system is the difficulty of filling up casual vacancies. Nomination by the Governor is not a method which this Government could accept and it would be difficult to devise any system of election which would not be open to objection on one ground or other. This Government are therefore inclined to the view that the advantages of the system are not sufficient to outweigh its disadvantages and that on the whole it is preferable to retain the existing well-tried system of communal representation.

40. There are two further matters on which this Government disagree with the Commission's proposals.

The first is the suggestion that it will be possible for an individual to retain membership of both the Federal Assembly and the provincial council. If the two bodies always met at different times there would be no objection to such dual membership. But it has been customary for the Legislative Assembly and most of the provincial councils to hold their most important session about the same time, namely, in February and March. As that is the most suitable time for the introduction and discussion of the budget, it seems likely that the central and provincial legislatures will continue to meet during these months. In these circumstances it will not be possible for any individual to discharge in a satisfactory manner the duties of membership of both the Assembly and a provincial council, and this Government consider that any individual elected to both bodies should be required to resign from one or the other. The second matter is the proposal that the allowances of provincial representatives in the Federal Assembly should be a charge on provincial revenues. This Government are not aware of any justification for this proposal. The Federal Assembly will be a central body, the Governor-General will regulate its sessions and the Government of India should bear all expenses connected with them.

The Council of State.

41. Though they consider that the Council of State will in theory be something of an anomaly in the constitution which they have proposed, the Commission recommend its retention on practical grounds. They would also retain the present number of members (60) and the present proportions of elected to non-elected members (33 to 27). They would extend the life of the Council to seven years and for the present system of direct election would substitute an indirect one. They make only very tentative suggestions as to the exact composition of the Council and the qualifications for membership. This Government agree that the Council should be retained with a membership of about the present number and also that its period of life should be extended to seven years. They disagree with the Commission in regard to the method of election. They do not consider that in the case of the Council of State there are the same reasons for indirect election as there are in the case of the Assembly, and even though they are in favour of a second chamber in this province they would prefer a system of

direct election to the Council of State to one of indirect election by the members of the provincial second chamber. Although the constituencies must, as at present, be large in area, the electorate will be small and it will not be difficult for members to keep in touch with their electors. Direct election to the Council of State has not been unsuccessful and there are not sufficient reasons for making a change. But this Government would extend the franchise by including all persons paying not less than Rs. 3,000 (instead of Rs. 5,000) land revenue as at present. The Ministers would also like to see the large landholders in this and other provinces given special representation.

Powers of the legislature.

42. The Commission do not recommend any immediate change in the legislative powers of the central legislature, though they contemplate that as the constitution develops there will be a gradual change in the range of its duties. This Government agree generally with the view taken by the Commission, but desire to make some suggestions in regard to the treatment of measures affecting social and religious usages. The first suggestion is designed to give to provinces a somewhat larger measure of autonomy in regard to such legislation. The Commission anticipate that legislation which affects British India only—and measures affecting religious and social usages will fall within this category—will tend to be left more and more to the provincial legislatures, but they also suggest that a more extended use should be made of enabling Statutes which would be passed by the central legislature and be subject to adoption by provincial legislatures. This Government hope that the Commission's anticipations will prove correct, but they themselves would like to suggest that provincial legislatures should be given a larger measure of control over legislation affecting religious and social usages by being given the power of requiring by resolution that any such legislation under consideration in the Federal Assembly shall be purely enabling so far as individual provinces are concerned. This would give the provincial legislature power to prevent a Statute which it considered unsuitable to the conditions of its own province from being applied to that province. Provision would have to be made for securing that such a resolution would have effect only in cases in which the proposed legislation actually affected religious

and social usages, and the most convenient method would be the grant of a statutory power to the Governor-General to make a declaration to this effect. It would be of further advantage from the provincial point of view if enabling Statutes could be so drawn as to permit a local legislature to adopt them with such modifications as might be required to suit the particular conditions of its own province.

43. The Commission have been unable to devise any statutory protection for minorities against discriminatory legislation and have come to the conclusion that the only practical means of providing safeguards is to retain an impartial power in the hands of the Governor-General and Governor and to give these authorities a specific mandate to use that power in all proper cases. This Government have sought for a more satisfactory conclusion but without success. They have a strong preference for some statutory provision which would make it possible for the representatives of any main community by a two-thirds majority to prevent the passage of legislation detrimentally affecting the community. But they appreciate the difficulty of making any such provision, and if this difficulty is found to be insuperable then they agree that the only alternative is to leave the safeguards in the hands of the Governor-General and Governors. In that case the safeguards would in their opinion be made more effective if—

- (1) the terms of section 67 (2) (b) of the Government of India Act could be widened so as to include social as well as purely religious usages,
- (2) a provision similar to section 67 (2) (b) could be introduced requiring the previous sanction of the Governor in the case of legislation in Governors' provinces, and
- (3) the Governor-General or a Governor should, when approached by any community to do so, be required to give a formal decision whether any Bill does or does not affect the religion or religious or social usages of the community and to pronounce his decision under the power held by him by virtue of (2) above. The Governor-General, or the Governor, should be authorized to require that, as evidence of the desire of the community for a decision on this question, the memorial should be signed by two-thirds of its representatives in the central or provincial legis-

lature or to prescribe any other test which he considered suitable.

44. The powers of the central legislature in relation to provincial finance are dealt with in a later part of this letter. This Government desire to say nothing on the Commission's proposals relating to the other financial powers of the central legislature.

CHAPTER 2.—THE GOVERNOR-GENERAL IN COUNCIL.

45. The Government of India have not asked this Government for any expression of opinion in regard to the constitution of the Central Executive; and the members of Government do not therefore state their views on this question. I am, however, to invite a reference in this connection to the request put forward in para. 2 of this letter.

CHAPTER 4.—RELATIONS BETWEEN CENTRE AND PROVINCES.

46. The question of financial relations between the centre and the provinces will be considered in the later section of this letter dealing with Part VIII of the Report. In this section I am to deal only with proposals in regard to the control over Governors in the exercise of their special powers and the control over provincial Governments in respect of those matters in which a provincial Government is held by Statute to be subject to superintendence and direction by the Central Government. This Government agree with the Commission that there must be some authority empowered to control Governors in the exercise of their special powers. The Governor will exercise these powers as the agent of Parliament, and so long as the Governor-General in Council is also the agent of Parliament, it might perhaps be held that in theory there would be no constitutional impropriety in the control being vested in the Governor-General in Council. But there are practical objections to this arrangement and the Commission have preferred to take the long view and to anticipate a change in the position of the Governor-General in Council by vesting this power in the Governor-General, who not only is, but must always remain, subject to the control of Parliament through the Secretary of State. This Government accept the Commission's proposal.

47. Under the existing constitution, while the Government of India and the Secretary of State have an unfettered

power of control over the administration of reserved provincial subjects, their power in regard to transferred subjects is strictly defined and limited by rule. Under the Relaxation of Control Rules the power of the Secretary of State and the Secretary of State in Council is limited to five purposes, namely,—

- (i) safeguarding the administration of central subjects;
- (ii) deciding disputes between two provinces;
- (iii) safeguarding Imperial interests;
- (iv) determining the position of the Government of India on questions arising between India and other parts of the Empire; and
- (v) safeguarding the due exercise and performance of certain powers vested in the Secretary of State in Council by Statute or Statutory rules.

Under Devolution Rule 49 the power of control of the Governor-General in Council is limited to the first, second and fifth of these purposes. In addition, however, the Government of India have under sub-section (1) of Section 45 of the Government of India Act and Devolution Rule 5 a right to require from local Governments information on the administration of any provincial subject, and under the Local Government (Borrowing) Rules the power to control the issue of loans by provincial Governments. The proposal of the Commission is that the Governor-General in Council should have as wide a power of control as the Secretary of State, though he would, of course, exercise it subject to the Secretary of State's control, and that that power should extend to the purposes nos. (i), (iii), (iv) and (v) above for which the Secretary of State can at present exercise his power, the supply of information, the raising of loans, and in addition the following two purposes, one of which is an extension of an existing purpose and the second is new—(a) regulating matters which may, in the opinion of the Governor-General, essentially affect the interests of any other part of India and (b) implementing international obligations. Subject to the limitations explained below this Government accept the Commission's proposals, though they would suggest that there will be some advantage if in drafting the Statute the number of separate categories is reduced as far as possible.

(i) At present the Government of India can exercise control over a provincial Government in relation to a transferred subject in order to decide questions arising between two provinces in cases where the provinces concerned are unable to agree. The Commission have explained at some length why they do not consider that that rule goes far enough. It does not give the Central Government any power to secure co-operation between the provinces in matters which are of vital concern to more than one part of India. Furthermore, it has been authoritatively held that under the existing rules it is not permissible to incur expenditure from central revenues on any provincial subject, except in so far as the expenditure represents payment for services rendered. That there is scope for co-operation, specially in such matters as Public health and Medical administration, admits of no reasonable doubt. But the method of securing co-operation is not free from difficulty. There is strong objection to the extension of the power of control by the Government of India in regard to the transferred subjects. There is a natural desire that the provinces should be as free as possible from central control. This Government, being satisfied that some further power of control is likely to be in the best interests of the province and realizing that over the whole field of administration the controlling power of the Central Government is being greatly reduced, are prepared to accept the principle of the Commission's proposal, subject to the understanding that the Government of India will be restricted to use their powers principally for the purpose of collecting information, giving advice, and settling a common policy, and not for the purpose of interfering in the actual details of administration in any province. In particular the Government of India should not use the system of grants-in-aid to secure control in provincial matters. The action taken in regard to the distribution of the proceeds of the petrol tax may perhaps reflect the desire of the Legislative Assembly rather than that of the Government of India to utilize the system of grants to effect control, but it has already created some apprehensions in provincial quarters. There are also indications of the same tendency in the proceedings of the Central Board of Agriculture.

(ii) It should be made clear that the Government of India's powers in relation to the all-India services should be restricted to control over the strength of the cadre to be employed in a province, and should not extend to such:

matters as transfers, promotions, etc., though there would be a right of appeal to the Government of India in certain service matters prescribed by statutory rule.

48. The Commission have proposed an important alteration in the present classification of central and provincial subjects so as to secure to the Central Government some control over the organization of the Criminal Intelligence Department in the provinces. As this Government understand the proposal the provincial Government would continue to control and pay for the C. I. D. but the Central Government would have the power to require it to maintain an organization which would fit into and co-operate with the Central Intelligence Department. His Excellency the Governor and Sir George Lambert agree that the Government of India should have some control, but they feel some hesitation on the subject since they anticipate that if it is expressed in the terms suggested by the Commission a provincial Government would, if it so desired, have little difficulty in rendering it nugatory. The other members of Government take the view that the C. I. D. is so essential a part of the machinery of Government that no Ministry will wish to reduce its efficiency and therefore no central power of control is required.

PART VIII.

FINANCE.

49. The Commission have observed (para. 158) that many of the suggestions contained in Sir Walter Layton's report go somewhat beyond the range of their constitutional inquiry. They have therefore confined themselves to an expression of opinion on the more strictly constitutional features of the proposals, and have withheld any opinion on such matters as the estimates of future revenue and the suggestions for fresh taxation. This Government may be expected to go somewhat further than the Commission in this matter, as they are concerned not only with the general suitability of the proposals from a constitutional point of view but also with their practical effect on the finances of this province during the next stage of constitutional development. For this reason I am to deal first with the constitutional aspect of Sir Walter Layton's scheme and thereafter with its practical application to the province.

50. The basis of the proposals can be summed up in the following propositions :—

- (i) there is no prospect of existing provincial revenues expanding sufficiently to meet necessary expenditure within the next ten years;
- (ii) the Central Government possess all the expanding sources of revenue and central expenditure should be capable of gradual reduction so as to leave a substantial surplus which will be available for meeting provincial needs;
- (iii) the surplus so obtained will not be sufficient to meet all provincial needs and must be supplemented by new taxation which should be uniform all over India and centrally collected, but the responsibility of imposing which must rest on the representatives of the provincial legislatures; and
- (iv) the distribution of the revenues to the provinces should be made partly on the basis of origin and partly on that of population.

This Government are prepared to give general acceptance to the first and the last two of these propositions. They are fully satisfied that the existing revenues of this province are not capable of sufficient expansion to meet necessary expenditure within the next ten years. They see little possibility of raising any substantial amount of fresh taxation on a provincial basis and they welcome the suggestion of central taxation and agree that the distribution of its proceeds partly according to origin and partly according to population will be as fair a method of distribution as can be devised. They particularly desire to emphasize the point that the method of distribution must rest on some such automatic basis as is afforded by figures of population; they are entirely averse from any method of distribution based on presumed needs or on standards of expenditure previously adopted in regulating provincial expenditure. While they agree with Sir Walter Layton that the Government of India possess the expanding sources of revenue, this Government can naturally express no opinion on the ability of that Government so to reduce expenditure as to leave a substantial amount available for transfer to the provinces.

51. The proposed method of allocating the Government of India's surplus gives rise to no difficulty. One half of

income-tax on personal incomes will be credited to the province in which it is collected and the proceeds of the salt tax will be credited to provinces on the basis of population. The introduction of this arrangement will be more difficult. This Government realize that the Government of India are not likely to be in a position to surrender a large amount of revenue immediately on the introduction of the Reforms and that the transfer will have to be gradual. All that they would ask for is that as much as possible should be given to the provinces as soon as possible and that as accurate an estimate as possible should be provided as to the amount that the provinces will get each year so that they may know where they stand and be able to budget accordingly.

52. The supplementary method of increasing provincial resources is more complicated. The proposal is that new taxation should be imposed and collected centrally and should be distributed on a basis of origin or population according to the nature of the tax. We are not here concerned with the nature of the proposed taxation—that will be considered later—but only with the machinery for its imposition. The proposal made by Sir Walter Layton and endorsed by the Commission is that a Provincial Fund should be instituted which will be fed by the proceeds of the new taxes. These new taxes will be voted by a Federal Assembly representing provincial units and sitting in special session and they will be collected centrally. A demand for such new taxation will be laid before the Federal Assembly in the form of a Bill by the Finance Member of the Government of India after the Finance Ministers of at least three provinces have at an inter-provincial conference asked for the taxation. The Finance Member of the Government of India, although responsible for introducing the necessary legislation, will not be bound to support it and may even oppose it. The Finance Ministers of the provinces will have the right to speak in the Assembly either in support of or in opposition to the Bill. The Federal Assembly's vote in a special session will then be decisive. These proposals may perhaps be open to criticism on theoretical grounds. An accepted principle of taxation is that no government should take from the taxpayer more money than it actually requires for public purposes. Under this scheme, however, if a single province happens to require additional funds and can induce, say, the Finance Ministers of two other provinces to support it in the inter-provincial conference and a majority of

members to support it in the Federal Assembly, then a tax will be imposed on the whole of British India. The force of this objection is no doubt weakened by the practical consideration that, during the next ten years at least, there will be few, if any, provinces that will not require all the additional funds that they can secure. The procedure in the Federal Assembly is also open to criticism. The spectacle of the Finance Minister of one province opposing in open assembly a tax desired by the Finance Minister of another province would not be altogether edifying, particularly if the Ministers concerned belonged to different parties. The party in power in one province might well be in opposition in another and the effect of a decision in the Federal Assembly going against the party in power in a province would obviously have the unfortunate effect of strengthening the Opposition in that province. A further objection, and this time of a practical nature, is that it will be very difficult, if not impossible, to avoid the disclosure of new taxation imposed by this procedure long before the time when the necessary legislation is actually introduced in the legislature. While pointing out these objections, this Government do not suggest that they are decisive. They believe that in practice the need of all provinces for additional resources will be so keenly felt for some time to come that there is no possibility of taxation being imposed in excess of the needs of any province. At the same time the objections to the scheme would be lessened if an absolute majority of Ministers in the inter-provincial conference was required before legislation for the imposition of any new tax was placed before the Federal Assembly. This would have the advantage of precluding any effective opposition in the Assembly, though it may be urged against it that it would make it harder for any individual province to obtain additional funds.

53. I am now to make some observations on the practical application of the Layton scheme. It will be admitted that its author has taken an unduly optimistic view not only of the probable surplus in central revenues but also of the possibility of new taxation. The surplus will depend on a number of uncertain factors of which trade conditions, foreign relations and the internal political situation are all of first importance. All that can be said with any certainty is that given favourable conditions, a moderate expansion of the proceeds of existing taxation can be relied on, and that, if the Government of India can secure some reduction.

of expenditure, there will be a certain surplus for allocation to the provinces. It is possible to be somewhat more definite in regard to some of the proposed new taxes, particularly the tax on agricultural incomes and the terminal tax. Nawab Sir Ahmad Sa'id Khan in his separate note (extract I in the appendix) has given expression to the very strong feeling among the land-holding class in this province against the proposal to tax agricultural incomes. Landholders already feel with justice that the burden which falls on them in the shape of land revenue (and it is impossible now-a-days to persuade those affected to regard this otherwise than as a tax) is out of proportion to that which is borne by the commercial and industrial tax-payers. It is not necessary to recite here all the arguments against the tax; it is enough to say that the proposal is one that is full of difficulties and this Government would not be prepared to support it; they in any case consider that this form of taxation should certainly not be imposed on this province by the Government of India on the vote of the central legislature. It is eminently a form of taxation which should only be imposed by a responsible government on the vote of the provincial legislature. The terminal tax is objectionable on other grounds and this Government regard it as wholly impracticable. Such a tax is at present a source of municipal revenue to many towns in this province and is much more suitable as a municipal than as a provincial tax. This Government see no serious objection to Sir Walter Layton's other proposals for new taxation. They are not in a position at present to give any estimate of the extent to which the proposals taken as a whole are likely in practice to benefit the revenues of this province. The preparation of such an estimate will require information which is not in the possession of this Government. I am, however, to remind the Government of India that the lack of sufficient resources has been a very serious handicap to practically all provincial Governments since the introduction of the first stage of the Reforms in 1921, and to say that this Government endorse the Commission's observation that it is vital to the success of the next stage in the development of Indian self-government that the provinces should command adequate resources.

Borrowing.

54. Sir Walter Layton's proposals can be summarized as follows:—Provincial loans must be subject to standard

regulations. The raising of such loans must be co-ordinated. For this purpose a provincial loan council consisting of the Finance Member of the Government of India and the Finance Members of the provinces should be constituted. This council would establish a borrowing programme, prescribe standard regulations and generally be responsible for advising on all matters relating to the service of debt. At first this council would be purely advisory, though Sir Walter Layton contemplates that it would ultimately become an independent body with full powers. The Commission deal with these proposals in para. 189 of their Report, but it is not clear to what extent they endorse them. They make no mention of the provincial loan council and merely state that "certain corrective powers should reside in the Central Government through a right to control borrowings by the provincial Governments", while they add that "the Central Government should be in a position either to refuse a loan required by a province to meet a deficit or if need be to impose discriminatory rates of interest in respect of any such loans as it grants". The construction which this Government put on the Commission's observations is that they propose to maintain the present arrangement and either do not approve of the proposed council or else regard it as a purely advisory body with no constitutional powers beyond advice. If that construction is correct, then this Government prefer the proposal of the Commission to that of Sir Walter Layton. They recognize the need for an authority to control and co-ordinate provincial borrowings, but they would prefer that that authority should be the Government of India, as at present, rather than a loan council constituted as proposed by Sir Walter Layton. If such a council were created then the borrowing proposals of any single province would be judged by a body composed of its own rivals in the money market. In theory this body would be purely advisory, but in practice the Government of India would find it very difficult, if not impossible, to reject its advice. The result might well be that the council might so use its power as to prejudice the interest of those provinces which possess no local money market of their own. It is again inadvisable that loan programmes should be discussed in circumstances which make secrecy difficult, if not impossible. There must be a controlling and co-ordinating authority, but that authority should be independent of all provinces and not a body composed of persons who have, either directly or

indirectly, an interest in the proposals which come before it. Such a body ought also to have not merely advisory but real powers, since the only other authority whose voice could be decisive in the matters dealt with by the council, namely, the Government of India, is itself a potential competitor with the provinces. It is probably impossible at the present stage of political development to constitute such a body, and in all the circumstances this Government would be quite content to leave the Government of India the power of controlling provincial borrowings to the extent described by the Commission in para. 189.

Provincial balances.

55. This Government agree with Sir Walter Layton's proposal that the present arrangements in regard to provincial balances should be maintained. Sir Walter has further suggested that the Government of India should perform banking services for the provinces on a commercial basis and should not attempt to make undue profits out of the business for the benefit of the central budget. This Government readily endorse this suggestion and express the hope that if the proposal is finally accepted they will be consulted in regard to the services rendered to the Government of India at treasuries and sub-treasuries and in regard to the other details which will have to be taken into consideration in evaluating the gain which accrues to the Government of India from the provincial balances.

PART IX.

THE FUTURE OF THE SERVICES.

56 There are at present four purely civil services in this province which are still recruited on an all-India basis, namely, the Indian Civil, the Indian Police and the Indian Forest Services and the Indian Service of Engineers (Irrigation Branch). The first question for consideration is whether any of these services should continue to be recruited as an all-India service. The Commission have made no final recommendation in regard to the two latter services, but have recommended that recruitment for the Indian Civil and Indian Police Services should continue to be made by the Secretary of State. The three reasons given for this

decision are (1) that this is the only means by which the best class of recruits will be obtained, (2) that the ultimate responsibility for the preservation of peace and order is to rest with the Governor, and (3) that the retention of these all-India services will facilitate the staffing of central posts. This Government agree with the Commission's recommendation. In their opinion all considerations point to the continued need for the recruitment of Europeans to these two services and the necessity of getting the best Europeans available. They agree with the Commission that the present proportions of European and Indian recruitment should be retained in each of these two services. In the case of the Indian Civil Service one half and in that of the Indian Police Service over three-fifths of the total direct recruitment is still European, and it is advisable that this recruitment for both services should be made by the authority that can be relied on to get the best class of European recruit. That authority is undoubtedly the Secretary of State, who is in close touch with the sources of supply. This Government therefore approve of the retention of the two services on an all-India basis and of the continuance of recruitment by the Secretary of State. I am, however, to say that Nawab Sir Ahmad Sa'id Khan (see extract K in the appendix) would prefer that while the all-India nature of the services is retained recruitment should be placed in the hands of the Government of India. He is not convinced that that Government will not be able to attract the present class of European recruit, and he feels that it will be in keeping with other constitutional developments to transfer recruitment from an authority in England to an authority in India. His reasons for not going further and recommending the provincialization of both services are that he is advised that it will be difficult to obtain European recruits of a suitable class for a provincial service and that he considers that the retention of the cadre on an all-India basis will facilitate the staffing of posts under the Central Government. I am also to add that this Government contemplate that the strength of these two security services will come under review from time to time as the constitutional situation develops; their present recommendation does not involve the assumption that it will be necessary to retain either service permanently. Furthermore, they assume that the provincial Governments will retain their present powers in regard to the posting, promotion, etc., of officers of these services and that the powers

of the Government of India will, in addition to appellate powers, be confined to determining the number of officers of the services to be employed in a particular province at any time.

57. The position of the Forest and Irrigation Service differs from that of the two security services. This Government agree with the Commission that some advantage would be derived by retaining these services as all-India services, but they do not consider that the advantage is sufficient in this case to outweigh the objections which will be felt on constitutional grounds. The main question of forest administration in the future will be the preservation of the forests. That is mainly a question of policy which will be determined by the provincial Government, and no service, however constituted, will be able to conserve the very valuable property which this province possesses in its forests except in pursuance of a definite policy of the local Government. On the other hand, there is no reason to suppose that given a wise policy of forest conservation a provincialized service will not be able to carry it out with a reasonable degree of efficiency. Irrigation affects the interests of the people more intimately and has more affinity to a security service. There is perhaps no department of Government in which a high standard of efficiency and impartiality is of greater importance to a vast number of the rural population. The existence of a European element in the department is undoubtedly a source of strength to it; but the proportion of European recruitment has already been reduced to such a low figure—25 per cent.—that this Government do not consider that the advantages to be derived from the retention of such recruitment are a sufficient reason for continuing the service in this province on an all-India basis. They are therefore prepared to agree to its provincialization. The existing members of both the Indian Forest Service and the Indian Service of Engineers should, of course, retain all their existing rights and privileges as members of all-India services, and should receive any general concessions which in future may be granted to services which are retained on an all-India basis.

58. This Government agree with the Commission that the success of the changes proposed by them will depend to a large extent on the retention in service of existing members of the all-India services, and that effective measures should be taken to discourage premature retirement. The present position in regard to such retirement is that the

existing officers of the all-India services fall into one or other of the two categories, namely :—

- (1) those who at present have a right to retire prematurely and will retain that right until the action to be taken on the Statutory Commission's Report is known, and
- (2) those who will obtain a right, to continue for one year only, to retire prematurely when the departments in which they are employed are transferred to the control of Ministers responsible to the legislature.

Many officers included in the first category will, if the proposals for the transfer of all subjects are accepted, also come into the second category. All existing members of the all-India services in the province therefore have, or, if all subjects are transferred, will obtain, a right to retire prematurely. Under the existing rules this right will be exercisable in the case of some officers when action to be taken on the Statutory Commission's Report is known, and in the case of others within one year of the transfer of their departments. The Commission propose that these officers should not be required to exercise the option of retirement within any fixed period, but should be given a continuing right to retire. With the experience of the last ten years before them this Government have no hesitation in accepting that proposal as the best method of retaining officers in the service : to prescribe a date beyond which the option cannot be exercised will undoubtedly lead to the early retirement of a number of officers who might otherwise be content to stay on in the service. These retirements will in turn react on the prospect of obtaining recruits in the future. This Government also agree that the safeguards provided for members of all-India services in the Government of India Act should be maintained and that the consent of a majority of the Council of India should continue to be required to any rules or changes in the rules affecting the conditions of service in these services.

59. The Commission have referred to the anxiety of officers in regard to the security of their pensions and of provident and family pension funds in the event of a transfer of financial control from the Secretary of State in Council to the Government of India. They point out that they are not in fact proposing any such transfer, but they nevertheless adopt and conform the view expressed by the

Lee Commission that in the event of such transfer of control adequate provision should be made for safeguarding service pensions. This Government agree with the view taken by both Commissions, and they also desire to bring to the notice of the Government of India the anxiety of European officers in regard to the rate of exchange at which their provident fund contributions may be transferred to England on their retirement. The United Provinces Association of European Government Servants and the Inspector-General of Police have recently addressed this Government on the subject. It appears that both that Association and the Indian Police Association have approached the Government of India in the matter and have received replies which they consider unsatisfactory. The fear of officers is that the present rate of exchange may be lowered, and their savings thereby materially reduced. This Government appreciate the difficulty of meeting the apprehensions of officers in this matter, but bring it to the notice of the Government of India since the anxiety in regard to the future rate of exchange may counterbalance the good effect of keeping open the right to premature retirement by inducing officers to go while exchange is still favourable to them.

60. The Commission propose that future recruits to all-India services should be given all the rights, privileges and safeguards which they recommend for existing members of these services with one important exception, namely, the right of premature retirement. This is mainly, if not entirely, a question of supply and demand. If the Secretary of State can obtain recruits of satisfactory quality, and in adequate numbers, on these terms, then there will clearly be no justification for offering better terms. But having regard to the uncertainty of the future conditions in which members of the services will have to work and to the impossibility of foreseeing what these conditions may be, there is some reason to fear that it may not be possible to obtain European recruits without giving them some prospect of being able to retire on reasonable terms before the completion of the ordinary period of service. It is not perhaps necessary to give the option of retirement on precisely the same terms as at present, but the conditions of service might be altered so as to give definite rights of retirement after fixed periods of service as in the case of the Indian Army. The period on completion of which the earliest pension should be admissible might be twelve years and higher pensions might be offered on completion

of longer periods of service. It seems doubtful whether the somewhat vague safeguard contemplated by the Commission, namely, a moral obligation on the part of the Secretary of State, will be regarded by those principally concerned as sufficient. I am, however, to add that Nawab Sir Ahmad Sa'id Khan is strongly opposed to the provision of a right of premature retirement among the conditions of service of new recruits, and considers that it would be preferable to do without European recruits altogether if they cannot be obtained without such an inducement.

61. This Government accept without comment the Commission's recommendations in regard to the medical treatment of European officers, additional pensions for Governors, and the establishment of provincial Public Service Commissions. They desire, however, to bring it to the notice of the Government of India that the recommendation of the Commission in regard to the medical treatment of European officers will not be operative, unless effective steps can be taken to secure the services of the sanctioned cadre of European officers of the Indian Medical Service. If the present conditions continue, this province will in a few years have no European Medical officers of that service. His Excellency's Ministers desire to make their approval to the establishment of Public Service Commissions subject to the condition that the interest of the minority communities will be safeguarded by a definite scheme providing for the due representation of such communities in the provincial and subordinate services.

PART X.

THE HIGH COURTS.

62. In this part of their Report the Commission propose to achieve uniformity in the administrative positions of High Courts (including the Chief Court of Oudh and the Courts of Judicial Commissioners) by placing them all under the executive control of the Government of India. As desired by the Government of India, this Government have obtained the views of the Hon'ble Chief Justice and Hon'ble Judges of the High Court at Allahabad and of the Hon'ble Chief Judge and the Hon'ble Judges of the Chief Court of Oudh on this proposal, and a copy of these views is enclosed with this letter. The Government of India will observe that while the Chief Justice and two

Judges of the High Court disagree with the Commission's proposal, the remaining Judges of the High Court and Chief Judge and all the Judges of the Chief Court support it. For the reasons given below this Government consider it desirable that the existing relations between these Courts and the provincial Government should be maintained.

63. The Commission lay much stress on the need for uniformity. That argument is a two-edged one. At present the anomaly lies in the position of one Court only, the High Court at Calcutta, and even if it be admitted that there is a need for uniformity, the natural way to achieve that would be by altering the position of the one Court at Calcutta rather than by altering that of the remaining seven Courts. It is not for this Government to express any opinion on the possibility of altering the position of the High Court at Calcutta, but even if it be found impracticable to bring that Court into the same relative position to the local Government as the other Courts occupy, this Government would deprecate the anomalous position of the Court at Calcutta being made a ground for making a change which they consider unnecessary in the position of the High Court at Allahabad and the Chief Court of Oudh. His Excellency Sir Malcolm Hailey and his Government are in full agreement in desiring that the complete independence of the High Courts in judicial matters should be maintained and that these Courts should be kept free from local political influence, but they are not convinced that the achievement of these objects necessarily involves the removal of the Courts from the executive control of the local Governments. It is reasonable to anticipate that such removal may be construed as a definite mark of distrust in the reformed local Governments. The underlying principle of the new constitution which the Commission propose for the provinces is to give the Ministry and the legislature responsibility for the whole range of provincial administration. That range naturally includes the administration of justice. It is therefore unfortunate that the Commission should at the same time propose to limit the field of provincial responsibility by removing the High Courts from the executive control of the local Governments. The Commission have argued with some force that the result of retaining any subjects as reserved subjects would be to focus criticism on these subjects. The same result is likely to follow the removal of the High

Courts from the provincial sphere. The change will not protect matters relating to the Courts from discussion in the provincial legislative council so long as the whole judicial administration, other than the High and Chief Courts, remains a provincial subject. If the council wishes to discuss such matters it will have no difficulty in doing so when the demands for grants for the ordinary judicial administration are presented to it. The relations between the High Courts and the district courts must remain intimate and many of the demands placed before the legislature will continue to be based on recommendations made by the High Courts. It is difficult to see how discussion regarding the High Courts can be avoided when such demands come before the councils.

64. It is of the highest importance that the relations between these Courts and the local Government should be those of mutual trust and confidence. The local Government must rely to a large extent on the High and Chief Courts for the maintenance of a high standard of efficiency in the district courts. These Courts, on the other hand, cannot maintain such a standard without the support of the local Government. It follows that the closer and more intimate are the relations between these Courts and the local Government, the more satisfactory is the judicial administration of the province likely to be. The Hon'ble Sir Grimwood Mears has pointed out that it would not be physically possible for any successor of his to maintain such close relations with the Government of India as he has had with this Government. This Government would regret any decision which is likely to deprive the future Government of this province of the advantages which the local Government have in the past derived from its close association in administrative matters with the High and Chief Courts.

65. The Commission have suggested that the change will secure the more complete independence of the Courts from local political influence and will simplify and accelerate business. On these two points I am to say that this Government endorse the views expressed by Mr. Justice King that no change is necessary to secure the independence of the Courts and that the change proposed will hinder rather than accelerate the despatch of business.

66. If the ultimate decision should be that the High Courts are to be removed from the executive control of the

local Governments, then some of the existing administrative arrangements between the High Court at Allahabad and the Chief Court of Oudh and this Government will require revision. This Government do not wish to urge this as a reason for not accepting the Commission's proposal, but think it right to refer to it as the necessary changes will involve legislation. At present, for example, the High Court is empowered to remove a munsif without reference to this Government. That is a power which the local Government could hardly be expected to leave in the hands of a Court which is in administrative relations with the Central Government. The Chief Court of Oudh has power to dismiss or otherwise punish the ministerial staff of any court subordinate to it. Here again it would be anomalous to allow servants of the local Government to be dismissed by an order of a Court which was under the executive control of the Government of India. These and other similar anomalies will no doubt be capable of adjustment, but it is right that it should be recognized from the first that adjustment will be necessary and that they will involve legislation. I am to add that this Government assume that, even if the Courts are centralized, the Governor will continue to be consulted before appointments of Judges are made. There are in making appointments of Judges other matters to be taken into consideration than those based merely on the legal attainments of the persons nominated.

ENCLOSURE 1.

Copy of a letter No. 3732, dated July 22, 1930, from the Registrar, High Court of Judicature at Allahabad, to the Secretary to Government, United Provinces, Reforms Department.

SUBJECT.—*Recommendation of the Indian Statutory Commission that the administration of High and Chief Courts should be transferred to the Central Government.*

In reply to G. O. No. 2-R., dated June 30, 1930, I am directed to say that Sulaiman, Mukerji, Banerji, Young, Sen, Niamatullah, Bennet and Kisch, Judges, agree with the proposals relating to the High Court contained in Part X of the Report of the Indian Statutory Commission, in which the Commission have recommended that the administration of High and Chief Courts should be transferred to the Central Government. The opinions recorded by the Hon'ble Chief Justice and other Hon'ble Judges are enclosed herewith.

OPINIONS OF THE REMAINING HONOURABLE JUDGES.

HON. C. J.—“ I am of opinion that there should be no change. I have had over ten years' experience of the working of the present system and have been in association with four Governors. The present system affords an opportunity for discussion between the Governor and other members of the local Government and the Chief Justice, the importance of which can hardly be over-estimated. This personal association would be lost, or at all events made more difficult, by reason of distance, if the transfer were made to the Government of India.

Further, the Chief Justice of this Court could not establish the same personal relationship with a high official resident at Simla or Delhi. Moreover, it is an advantage to the local Government and the High Court that the appointments be made by a local Government, who have, or can easily obtain, personal knowledge of men from whom selection must be made.

Throughout all the time I have been here it has been the practice of the local Government to ask the opinion of the Judges when appointments were under consideration and this has done much to maintain the good relations which exist between the local Government and the High Court and in my opinion also has benefited the people of this province. There are moreover times when an urgent decision has been necessary and on all these occasions the local Government and the High Court are enabled to act promptly.

I know the working of the present system and I am content with it. I do not want it to be changed, and my opinion is impersonal because in any event I shall have ceased to be Chief Justice before the proposed change can come into operation.”

KENDALL, J.—“ I can see nothing in favour of the proposal. As regards establishment: It is true that the local Government have not been treating us generously of late, but I do not anticipate anything better from the Government of India, which will receive demands from a large number of High Courts without any knowledge of the facts. The local Government at least knows something of our needs, and is much more accessible. In personal matters it is much easier and quicker to get leave, etc., from the local Government, which will have to nominate the officer to officiate in a vacancy even if it has nothing further to do with the appointment.

No doubt it will be more convenient for the Government of India to deal with the High Court of Calcutta and Assam, for the reasons stated in the Report. But there is no reason why the position of these Courts should not continue to be ‘ anomalous ’. I do not think it will hurt any of the other High Courts to continue their relation with the local Government.”

KING, J.—“ The proposal is to put all High Courts under the administrative control of the Central Government.

There may be good reasons for the proposed change but the reasons given in the Report seem to me distinctly weak. It is

pointed out that the High Court of Calcutta is under the administrative control of the Central Government, while all other High Courts are under their respective provincial Governments. The Calcutta system is shown to be unsatisfactory. No attempt is made to show that the system in force for all other High Courts is unsatisfactory. I do not find even an expression of opinion to that effect. This being the position, the argument that uniformity of treatment is desirable would logically lead to the conclusion that the Calcutta High Court should, so far as possible, be brought into line with all the other High Courts. Even if it is impossible to attain absolute uniformity, because the Calcutta High Court exercises jurisdiction over Assam as well as Bengal, no good case is made out for altering the system which has been in force for all other High Courts for many years and is not said to be unsatisfactory. A doctrinaire desire for uniformity is not an adequate reason for altering administrative systems which have stood the test of time and have not been found wanting.

The only reasons or justifications given for the proposed change, apart from the desire for uniformity, are as follows:—

- (1) There is reason to believe that it would carry out the real intention of the Feetham Committee. On this I cannot express an opinion as I do not know what their recommendations were, or how far they should be considered authoritative.
- (2) Representations were made from several sources in favour of the change.

As the grounds of the representations are not stated, one cannot form any opinion whether they are well founded.

- (3) The importance of maintaining the complete independence of the High Court bench . . . in controversies in which the local administration may be involved.

The complete independence of the bench is no doubt a matter of great importance, but I think the Judges are completely independent under the present system. They are appointed by His Majesty or by the Government of India. The provincial Government cannot transfer them or take any sort of disciplinary action against them. Their salaries are non-votable. The only 'administrative control' which the provincial Government exercise over the Judges personally consists in granting leave, but I believe there has never been a Judge who feared that the provincial Government might refuse to grant leave on account of being displeased with him or whose judicial impartiality and independence were in the slightest degree affected by any such consideration. I do not know what sort of 'controversies' are referred to. Judges have to decide cases. It is no part of their duty to enter into controversies.

If it is intended to suggest that Judges are apt to show favour towards the provincial Government, owing to the fact that the High Court is under the administrative control of the provincial Government, I think the suggestion is quite unfounded. I do not see how the proposed change will make the Judges more independent. It is inconceivable that a Judge's impartiality or independence will be affected by the facts (a) that his salary is paid from central funds instead of from provincial funds, (b) that his applications for leave are dealt with by the Central Government instead of by the provincial Government and (c) that the High Court budget is under the control of the Central Government instead of the provincial Government.

(4) The change will simplify and accelerate business.

I think the change will have precisely the opposite effect. Correspondence will be addressed to Delhi or Simla instead of to the provincial capital or provincial summer head-quarters. This will, at the outset, involve more or less delay in all cases. The Central Government on receiving the communication will in many cases have to refer to the provincial Government before replying. This would be necessary in the case of applications for leave when a temporary Judge has to be appointed. It would also probably be necessary if the High Court required any additions, alterations or repairs to buildings, and in many other classes of requirements. The Central Government would never be in a better, and usually would be in a worse, position than the provincial Government to decide whether the requirements are justified. Hence the necessity for frequent reference by the Central Government to the provincial Government and great delay in transacting business.

Although the reasons given for the proposed change strike me as weak and unconvincing, I do not wish to be understood as condemning the proposal entirely. I do not think there is much to be said *against* the proposal except that the new system does not seem to possess any substantial advantage over the present system and that it will involve delay in the transaction of business. There is no reason to fear that the High Court Judges 'will be removed too far from the provincial Government'. The High Court will continue to supervise the subordinate courts and advise the provincial Government regarding the appointment, promotion or dismissal of the subordinate judiciary. This will keep the High Court in close touch with the provincial Government.

As for the High Court Judges themselves I think the proposed changes will make no difference. They will be neither more nor less independent than they were before. I cannot express any opinion on the financial aspect of the proposed changes. I presume that the High Court fees will not be earmarked for meeting the expenses of the High Courts in such a way that the amount available for expenditure will depend upon the amount of income derived from fees. If the budget grants are on the same scale as

hitherto the High Court will neither suffer nor benefit financially from the proposed change."

ENCLOSURE 2.

Copy of a letter No. 1885/XIV—144-21, dated July 15, 1930, from the Registrar, Chief Court, Oudh, Lucknow, to the Secretary to Government, United Provinces, Reforms Department.

With reference to your letter No. 3-R., dated June 30, 1930, I am directed to submit the following opinion of the Court on the subject.

The Court agrees with the authors of the Report that the Chief Court of Oudh should be placed under the control of the Central Government for administrative purposes. There are some points, however, to which the Court desires to draw special attention. In paragraph 343 of the Report, it is observed—"Permanent Judges are appointed by His Majesty". This is so in respect of the Chartered High Courts, and statutory provision sanctioning such procedure is to be found in section 101 of the Government of India Act; but permanent Judges of the Chief Court of Oudh are not appointed by His Majesty but by the Governor-General in Council as is provided by section 4 of the Oudh Courts Act (U. P. Act IV of 1925). The Court thinks that in the new Government of India Act, provision should be made to remove this anomaly. As regards Additional Judges the appointment will be made under the Oudh Courts Act, 1925, by the Governor-General in Council, but in the same Act provision is made for the appointment of Judges in temporary vacancies by the provincial Government. In the matter of the former appointment the Court is of opinion that the law should remain as it is, that is to say, power should vest as it vests to-day in the Governor-General in Council for the appointment of Additional Judges for a period not exceeding two years. In the matter of temporary vacancies the Report observed that "the appointment of temporary Judges should be made by the Governor-General, but only after consulting the provincial Governor". The Court entirely agrees with the first part of the recommendation. As regards the necessity for consulting the provincial Governor in the matter of the appointment of temporary Judges, the Court thinks that this recommendation may be looked at from two points of view, *viz.*,—(a) the appointment of such persons as are members of the Indian Civil Service or of the Provincial Civil Service, and (b) the appointment of such persons as are not members of either of those services. In the former case the Court is of opinion that the provincial Governor should be consulted. The necessity for such consultation is greater in these provinces for the reason that there exist two High Courts in the same province—one at Allahabad and the other at Lucknow. In the latter case the Court thinks that there is no need for consultation with the provincial Governor. In such cases the recruitment is generally made from the Bar and the High Court is in the best position to make nominations for appointment by the Governor-General.

APPENDIX.

[*Extracts from notes by HON. CAPTAIN NAWAB SIR AHMAD SA'ID KHAN and His Excellency's Ministers.*]

A.—COMPOSITION OF THE MINISTRY.

(i) I have not been able to understand the position of the official Ministers. In practice these official Ministers are bound to prove a great weakness, instead of strength, to the constitution. Suppose a vote of censure is carried against the Ministry and the Ministry resigns on the ground of joint responsibility. When the new Ministry is formed these official Ministers are again included in it. Will it not bring about another vote of censure for this very reason, that the members of the outgoing Ministry were taken into this new Ministry? I know there may be occasions when a certain action of an individual Minister may be responsible for the vote of censure; but in that case not only the official Ministers but even the non-official Ministers, if included in the new Ministry, will be quite safe. But whenever there is a question of broad policy which is the cause of the motion of censure I do not think there will be any chance for the official Ministers to be able to command the confidence of the house if they are included in the new Cabinet. One can understand the position of the Executive Council on the Reserved side; it is straight and frank. It indicates from the very beginning that the Reserved side is beyond the authority of the legislature. But to make the whole thing Transferred and to keep Ministers who are practically irremovable is a very illogical proposal. It is quite likely that the cause of the vote of censure may be the policy advocated by the official Ministers inside the Cabinet, and in fact, it is more often than not that it will be so. Will it be logical to remove the elected members of the house for a policy with which they had the misfortune to agree and to allow those to be included in the new Cabinet from whom it originated? I think such a proposal will be a constant cause of friction between the legislature and the Governor, and I am unable to understand what will be the fate of such official Ministers except that they will be made to retire on higher pension and others will be selected who will meet with the same fate in a short time and so on—(*Sir Ahmad Sa'id Khan*).

(ii) The second point on which the Muslims laid great stress was their inclusion in every Cabinet. I know it is difficult to include such a provision in the Statute; but I think statutory rules can be framed saying that no Cabinet should be composed of members of only one community—(*Sir Ahmad Sa'id Khan*).

(iii) It is obvious that the Commission is not opposed to the idea of guaranteeing representation in the Ministry for the important minorities, but they feel that they cannot do so in the Statute. We are of opinion that there should be a provision in the Statute or statutory rules which may guarantee that the representation of the non-Muslims and the Muslims in the Cabinet would be in the

proportion of two-thirds and one-third—(*Honourable Ministers' joint note*).

B.—CABINET PROCEDURE.

(i) It is proposed that there should be an I. C. S. Secretary to record the minutes and that he should have direct access to the Governor "so that whether His Excellency was present at a given meeting or not he would be kept impartially and fully informed of the course of business". I regard this as a very unfortunate proposal. What will be the effect of this proposal on the mentality of the Ministers? They will regard this Secretary as a spy on them. From the very beginning it will mean that the Governor has not got full confidence in his Ministers. In fact, the new Constitution will start in an atmosphere of suspicion and mistrust, while for the success of the Constitution, as far as my experience goes, it is necessary that there must be team-working which cannot be had unless all colleagues have full trust in each other. I will go even a step further; I think for a successful Cabinet there should be among the members a sort of feeling of being members of the same family. It is then and then only that the best can be had out of the men. It seems to me sufficient if the record of the minutes of every meeting of the Cabinet should be submitted to His Excellency for his perusal. I think we can take it for granted that those who will be appointed as Ministers will be honest enough not to misrepresent a case before His Excellency—(*Sir Ahmad Sa'id Khan*).

(ii) We endorse the recommendations of the Commission with regard to the procedure at the meetings of the Ministry generally. We agree that ordinarily much work should be disposed of at the meetings of the Ministers without the Governor being present. We do not think that there should be any official who should be in a position to advise independently the Governor against any of the decisions of the Cabinet. The Governor after reading the proceedings of the meeting may discuss any particular matter with the Ministers and may, if he thinks incumbent upon him to do so, over-ride any decision in the interest of law and order and in the interests of the minorities. However, we recognize the necessity of some independent agency which would keep the Governor informed with regard to all matters of the administration carried on by the Ministers without having any power whatsoever, except that which may be necessary for and consistent with his duties to gather information for the Governor from the different departments—(*Honourable Ministers' joint note*).

C.—CONSTITUTIONAL RESOLUTIONS.

The proposal that the provincial legislature should have a power to carry a "constitutional resolution" providing for—

- (a) changes in the number, distribution or boundaries of constituencies or in the number of members returned by them;

- (b) changes in the franchise or in the method of election; or
- (c) changes in the method or representation of particular communities,

is calculated to avoid the necessity of a fresh Act of Parliament before these changes can be made. So far as (c) is concerned we are of opinion that the zamindars will not agree to the proposal as they would like permanently to have a right of separate special electorate to send their representatives to the council. The proposal, we think, in spite of the safeguard provided for the minorities, namely, that a constitutional resolution must be carried by two-thirds of the votes of the legislature and "as part of this majority" by two-thirds of the members representing the community affected may not be acceptable to the Muslims who would not be prepared to give up the present right of separate election till they feel they should give it up of their own accord—(*Honourable Ministers' joint note*).

D.—DEPRESSED CLASSES.

The importance of the depressed classes lies in the fact that they include within their fold lakhs of humble tillers of the soil and also real agricultural castes such as Kachhis, Lodhas, Kurmis, Murao, Koeri, Tharus, Bhukasas, etc. Had it not been for Tharus and Bhukasas the culturable land of the Tarai would have remained uncultivated . . . The importance of the depressed classes will fully appear from the following very pertinent observations of Sir Tej Bahadur Sapru:—

"I do say what is my most sincere conviction, that unless you are able to solve your own social problems about the depressed classes and the untouchables, I do not see any real prospect for real genuine constitutional advance, and any Constitution that you may get will certainly not arouse any interest in me, because I do feel, howsoever good, howsoever perfect, howsoever ideal your Constitution may be, unless you have got the support of the minorities and unless you command the confidence of those whom in your vanity you may describe as depressed classes, your Constitution will not be worth a day's purchase."

So far as my information goes, suitable representatives of the depressed classes will be forthcoming to fill 40 seats on the Council.

The Simon Commission admit that most of the depressed class associations which appeared before them favoured separate electorates with seats allocated on the basis of population. The United Provinces Adi-Hindu (Depressed Classes) Leaders' Conference was held at Allahabad on July 23. "This Conference while thanking the members of the Indian Statutory Commission for taking a keen interest in the cause of the depressed classes, strongly pro-

tests against their recommendation of a joint electorate system and is of opinion that nothing short of a separate electorate would ameliorate the social and political status of the depressed classes." The Simon Commission concede that "Separate electorates would no doubt be the safest method of securing the return of an adequate number of persons who enjoy the confidence of the depressed classes". But they are averse from recommending separate electorates for them on the ground that separate electorates will prevent their political amalgamation with other Hindus. They have ignored one important fact. The depressed classes are not a homogeneous body. They consist of a large number of heterogeneous clans which are socially distinct and are kept apart from one another by a spirit of rigid exclusiveness and separation. They entirely lack cohesion and are scattered all over the province. Although according to our *Shastras* as interpreted by the Calcutta High Court the various sub-divisions of the Shudra caste can intermarry but in actual practice intermarriage between them is impossible. The depressed classes have been divided into separate clans by very sharply defined boundaries over which it is impossible for one to pass to another. Ethnologically they are so many tribes and clans, with separate histories and customs. There should be two distinct stages in the process of their political amalgamation with the high caste Hindus. The first stage should be that they should be brought together and welded into one political unit. Their unification into one political unit will be seriously retarded if the system recommended by the Simon Commission is adopted. Their voting strength will be much smaller than that of the high caste Hindus. A member of the depressed classes who wants to get himself elected will look rather to the ease with which he can secure election to the council than to the political education of his order. He will naturally solicit the support of the high caste Hindus who will be both numerous and influential When such a candidate is returned to the council, he will be a servile follower of the high caste Hindus and will be more concerned to keep their favour than to represent the interests of his own order If the system recommended by the Simon Commission is adopted, the candidates returned to council will not only show no interest in the welfare of the depressed classes but will regard themselves as members of the high castes and in no way allied to the depressed classes. The result will be that the concession proposed by the Simon Commission instead of being a blessing will be a veritable curse to them—(*Raja Bahadur Kushalpal Singh*).

E.—REPRESENTATION OF GREAT LANDHOLDERS.

(i) The chief reason that they have given for the abolition of the special representation of the zamindars is that they have been able to capture enough seats in the legislatures through the general electorates. That is true; but it is equally true in the case of other special constituencies. For instance, graduates, professors, teachers and *ex-teachers* come into the councils through the general electorates and yet the universities are given representation. Simi-

larly, men of business and commerce in the Assembly and the councils have often been elected through the general constituencies. Is there any reason why they should be given special seats, while the special seats of the landlords should be taken away? If we compare the number of landlords returned to the council in the election of 1924 with those returned in the election of 1927, we find that while in 1924, according to the memorandum of the United Provinces Government, there were 51 landlords, their number has come down to 45 in 1927. With the widening of the franchise I am sure that the chances of the landlords of getting into the councils from the general constituencies will be greatly reduced. But this is not all. The real point is this; that the landlords elected by the general constituencies will perforce try to represent the views of their constituencies in the legislature. Again and again, I have noticed in the legislative council that while the landlords representing the special constituencies boldly took a line of their own in regard to a particular proposal, the other landlords, in spite of their sympathy with the proposal, opposed it because they were afraid of their constituencies. A landlord elected by a general constituency will never be able to go against the wishes of his constituents—(*Sir Ahmad Sa'id Khan*).

(ii) We are bound to say that the withdrawal of the rights of the zamindars and taluqdars to be represented through their own associations is a very retrograde and unjustifiable recommendation. The arguments advanced by the Commissioners that the Montagu-Chelmsford Report contemplated only as a temporary arrangement to give representation to the zamindars through a separate special electorate of their own and that they did not desire it to be a permanent feature cannot be accepted as incontrovertible. While it may be arguable on the basis of a certain expression which occurs in the recommendations of the Montagu-Chelmsford Report, namely, "we must give them special measure of representation, if they need it *at the outset*, but it may be that their political education like the ryots will come mainly by pressure of events" that it was not meant to be a permanent feature. It cannot be denied that the power of the zamindars, as has been found all over the world, is bound to decline gradually, and if special representation to zamindars was found necessary to be given from the very beginning, it is even more necessary now when the working of the Reforms have shown that the majority of the zamindars has decreased after every general election under the Reforms. The alternative suggested that the Governor may nominate zamindars in the legislature if the representation is not adequate according to the representation guaranteed to them under the present Constitution is, in our opinion, extremely unsatisfactory and cannot be acceptable to the zamindars We are of opinion that at least sixteen seats should be allotted to the Agra Province Zamindars' Association and the British Indian Association of Oudh to return their representatives to the council, as has been recommended by the Indian Central Committee or even more proportionately to the total strength of the council—(*Honourable Ministers' joint note*).

F.—SECOND CHAMBERS.

(i) As far as this province is concerned I am strongly in favour of a second chamber. This was recommended by the committee elected by our legislature to co-operate with the Simon Commission; it was recommended by the Central Committee also. The Simon Commission has recommended the federal system of government for India. In the majority of cases where there is the federal system different states which form part of that Federation possess their own second chambers. This is a well-recognized form; it has been used in many places as a brake on the democracy and I do not see any reason why we should be deprived of this. Looking ahead one feels that whatever be the form of the Constitution in the near future ultimately the powers of the Governors are bound to disappear, the pressure for their abolition will continue and sooner or later Government will have to modify them. Therefore, the argument used in the Simon Commission's Report, that the existence of this second chamber will be used as an argument to curtail the powers of the Governor is not really a strong argument. That demand will always be made by Nationalist India, and when that time comes people will realize that after all it is a blessing to have a second chamber. I should like to suggest that the future Governors should be directed in the Instrument of Instructions to include a certain number of members of the second chamber in the Cabinet. This will ensure the presence of conservative element there—(*Sir Ahmad Sa'id Khan*).

(ii) The Commission has discussed the question of a second chamber in the provinces at length and has not given its definite opinion one way or the other. We are of opinion that in view of the provincial autonomy to be established, it is absolutely necessary that there should be a second chamber in the provinces where it is pressed for . . . Specially in the United Provinces the necessity of a second chamber should be recognized. We think that the second chamber should consist of members mainly elected by the recognized landholders' associations, such as the British Indian Association of Oudh and the Agra Province Zamindars' Association and similar bodies in other provinces. Other interests entitled to representation should also be represented. The percentage of the representation of Musalmans by separate electorate in this chamber should be the same as that in the lower house. Thirty per cent. representation of the Musalmans in the second chamber should be on the basis of 30 per cent. of the elected members in the chamber including the representatives of the depressed classes. Of course this body will necessarily have to be a much smaller body than the lower house. This house should consist wholly of non-officials and nominated members.

Some of the Cabinet members should also be drawn from the second chamber in the provinces—(*Honourable Ministers' joint note*).

G.—SYSTEM OF ELECTION TO FEDERAL ASSEMBLY.

We are definitely of opinion that the direct system of election to the Federal Assembly should continue as it has existed hitherto.

But if we are to recognize the force of argument that in a federal system probably it would be better to resort to indirect election, we will say that the system of election may be partly direct and partly indirect. It may be indirect in so far that the representatives of the Hindus and Muslims may be elected in each constituency by an electorate consisting of the Hindu or Muslim members of the upper and lower house of the provinces residing in each constituency, the Hindu or Muslim members of district and municipal boards, residing in each constituency and also other Hindus or Muslim representatives representing special constituencies and other bodies residing in each constituency. Other minorities may be represented by nomination by the Government or by direct election from the different bodies representing different interests. We think that if our suggestion is adopted, it is likely to be more effective and probably be accepted more readily by various interests and communities. However, our colleague, Hon. Raja Bahadur Kushalpal Singh, is opposed to this proposal as he thinks the urban element and influences under the scheme will predominate. Representation by proportional representation would not be acceptable to the Muslims as it is likely to decrease their representation in the Federal Assembly. Moreover, the proposal has not even the merit claimed for the mixed electorate with reservation of seats for Muslims. Thirty per cent. representation of the Muslims in this house should be on the basis of 30 per cent. of the elected members in the house including the representatives of the depressed classes. We are strongly of opinion that the recognized landholders' associations should have the right to send an adequate number of representatives directly to the Federal Assembly. The British Indian Association at Lucknow and the Agra Province Zamindars' Association at Allahabad, and similar bodies in other provinces, should have a right of electing their representatives to the Federal Assembly according to their demands or even more proportionately to the total strength of the Assembly. These bodies should be treated as separate special electorates to return their representatives to the Federal Assembly. Landholders should continue to retain the right to stand from general constituencies also.

It cannot be said that the zamindars have no vital interests to protect in the Federal Assembly. It will have to be recognized that the zamindars in the Federal Assembly have certain vital interests to protect, such as their share in the naval, army, aerial and railway services, not to mention the services in the different departments under the Government of India—(*Honourable Ministers' joint note*).

H.—THE ARMY.

Under this head I wish to deal with the proposals made by the Commission about the Commander-in-Chief and the Indian Army. The changes proposed here definitely reduce the power of the Central Legislature as far as the Army is concerned. First of all, I shall deal with the position of the Commander-in-Chief. In para-

graph 170 of volume II the Commission has recommended that the Commander-in-Chief should not in future be a member of the Executive Council, and if any question arises in the Indian legislature it will be dealt with by a civilian or perhaps by one of the members of the Executive Council. The effect of the Commission's recommendation is to put the Army under the control of the Viceroy instead of the Government of India with the object, as they say, of assisting "in removing from the path of Indian constitutional progress an obstacle which otherwise threatens to block it for an indefinite time". I admit the Army question is an all-important one, and there is nothing further from my mind than to make any suggestion for any radical change in that direction. I agree that the Army should be treated as a Reserved subject. I agree that the legislature should not be allowed to have too much interference with the Army Budget. I believe this is the present position. The Assembly can only discuss the Budget, and the members during the discussion can only make suggestions, and it is not necessary for the Government of India to accept any cut or to act on any suggestions made by the Assembly. They are quite free to do as they like. In the recommendations of the Commission it is proposed that Indians should not be allowed even to associate themselves with the question of the Army and with the problems of the defence of their country. The Indian members of Government, although they are not in charge of the Army, as members of Government, I believe, discuss the question of the Army and their suggestions carry some weight with the Commander-in-Chief. But as it is proposed, they will have nothing to do with the Army in future and the whole thing will be dealt with by the Commander-in-Chief in consultation with His Excellency the Viceroy. I am aware of the importance of this question, and I do not wish to make any suggestions for a radical change. The present system has worked perfectly well for a long time, and I see no danger if we allow it to continue instead of accepting the recommendations of the Commission—(*Sir Ahmad Sa'id Khan*).

I.—TAXATION ON AGRICULTURAL INCOMES.

The question of taxing agricultural incomes is one which may have very far-reaching effects. It deals with the life blood of the agricultural community of India. Apart from the theory whether revenue is rent or tax, there can be no denying the fact that whatever increase is proposed, either as tax or as rent, it will be a further burden on land. The question whether those who wish to impose the tax regard it as rent or tax does not interest the person who will have to pay it. To him it matters little by what name you levy the impost; what interests him is—how much is left for him and his children. Therefore I think that what applies to Government land revenue policy can apply to the taxation of agricultural incomes. Here I may make two quotations giving the views of expert officers on the land revenue policy. These may sound irrelevant because we are dealing with a tax on agricultural incomes; but, as I have said, I treat both in the same light and

therefore they are applicable here. Sir Charles Metcalfe observed:—

“ I believe that the happiness of the bulk of the inhabitants of the Western Provinces depends more on revenue settlement than on any other thing whatever.”

Sir Alfred Lyall once observed that—

“ Few human beings could cause so much misery to so many people as a settlement officer who over-assessed a district.”

Here I may mention that whatever be the name, tax or rent, it is a further burden on land and it will be passed on to the cultivator in time to come, if not immediately.

Now, coming to the vexed question whether land revenue is a tax or rent, I know that opinions differ, but the arguments put forward by the Indian Taxation Inquiry Committee, who were an expert body in dealing with a question like this, are interesting and illuminating. They have dealt with this question in paragraph 78 of their Report. They have dealt with the practice before the British occupation in the time of Muslim and Hindu rule. They have quoted many eminent writers, and I will only quote from them the conclusions arrived at by the Bombay High Court in a case from Kanara which are as follows:—

“ This review of the authorities leads us to the conclusion arrived at also (after careful discussion of the question) by Professor H. H. Wilson, that the proprietary right of the sovereign derives no warrant from the ancient laws or institutions of the Hindus and is not recognized by modern Hindu lawyers as exclusive or incompatible with individual ownership.”

As to Muslim rule, they have quoted Colonel Galloway, who was the greatest authority on the Hanifan school of Islam. He says:—

“ The soil was the property of the cultivator as much as it could be. Law gave no power, policy gave no motive to remove him or to disturb him, so long as he paid his taxes. When he did not, his lands could be attached; and so can those of the first Peer holding by the firmest tenure of the English law. The right of the Indian husbandman is the right of possession and of transfer; and the rate of his land tax was fixed; often indeed the amount. In what respect, then, is his right of property inferior to that of the English landholders?”

So far it deals with the times before the British *raj*. On page 64 they have quoted two decisions by the Privy Council. They were of course about Bengal. There the Lord Chancellor stated:—

“ Considering with the best attention in my power these papers, they confirm most strongly the opinion I should have derived from the permanent Regulations, namely, that the proprietor of the soil had a permanent interest

in it at the time when the English established themselves in that settlement."

It is admitted that the proprietors of the soil had a permanent interest in the soil when the English established themselves. It may be argued that all this was said of those who live in the permanently-settled districts. But this argument has no force. The members of the Taxation Inquiry Committee agreed on page 66 that "in the generality of cases the zamindars and ryots are respectively the possessors of the proprietary right subject to the payment of land revenue". Therefore, those who think that land revenue is a tax have got a strong ground to stand upon.

Now, let us take the practical side of the case. It will be very difficult to find out the real sum to be assessed. As we know, landlords do not generally keep accounts, and it will be a great hardship for them to do so; they pay most of their wages in kind; and I do not see any means of finding out exactly what is the income to be assessed, unless it be by some rule providing for taking into consideration, in assessing the tax, the rent of a tenant. We know that the settlements, although they are made in the districts after every forty years, create great disturbance in the life of the village. But this will have to be done annually, and the settlement process on a minor scale will continue in the villages to upset the village life. Then there are suspensions and remissions, and from year to year a fairly large staff will be engaged to find out the real amount that should be assessed.

As to political objections, the Committee themselves have mentioned them in paragraph 268 of their Report. I am sure further taxation on agricultural income is wrong. It will bring down the price of the land a good deal and will cause great economic distress. And the political effect of it in future will be such that the income so derived will hardly be worth the bitter feeling that this is sure to create.

In sort, the position in the districts which have periodical settlements is that the proprietor of the land has to pay 40 per cent. of his income as land revenue and 10 per cent. as cesses. The question then remains whether there is any justice in taxing him further. If he is to be taxed on the top of this the position will be simply intolerable and is bound to revolutionize the whole structure of rural society in this country. If he is to be taxed instead of land revenue the number of exemptions will be such that it will not be worthwhile to do so—(*Sir Ahmad Sa'id Khan*).

K.—THE SERVICES.

As to the security services, *i.e.*, the I. C. S. and the I. P. S., I hold the same view which I expressed in 1924 as Minister, *i.e.*, they should be kept as all-India services, recruitment should be made not by the Secretary of State but by the Government of India, and they should have the right of appeal to the Government of India in cases of their promotion, supersession, etc. My reason for proposing this change is that with the further advance of re-

sponsible government in this country the services should be responsible to some authority within India and not to an authority outside the country. I know there are certain important points where the control of the Secretary of State should be kept—points of military importance or of Imperial interest; but I do not think that the question of the services is of such importance that the Secretary of State should be responsible for their recruitment. The reason why I did not propose to provincialize these services is this. A certain number of members of these services will always be required for the Central Government, and the present arrangement has worked excellently. They select officers from various provinces, and if the services are provincialized they will either have to recruit separately for the centre or to take officers on deputation from the provinces. In the former case, the efficiency of the central cadre will be very much reduced by the fact that they will have no experience of the provinces. At present irrespective of the views of the local Government the Government of India can benefit a lot from the experience of such officers belonging to the various provinces who happen to be there. In the latter case, *i.e.*, in the case of deputation, there will always be difficulties in their promotions, and they will always look back to their provincial Governments as their masters instead of looking up to the Government of India. Besides this, I agree that it will be desirable to continue recruitment of Europeans in these two services for some time to come. I understand it will be difficult to get recruits if the services are provincialized. It should be easier to get European recruits if the Government of India will give them a guarantee about their pay, pension and prospects. I am told that European recruits would not like to come out unless the services are controlled by the Secretary of State. I do not see why the guarantee given by the Government of India, which is as much part of the British Empire as any other country, should not be regarded as sufficient to induce European recruits to join the Indian services—*(Sir Ahmad Sa'id Khan)*.

No. 4706-S. Reforms, dated Simla, the 14th August 1930.

From—MILES IRVING, Esq., C.I.E., O.B.E., I.C.S., Additional Secretary to the Government of the Punjab,

To—The Joint Secretary to the Government of India, Reforms Office, Simla.

I am directed to reply to your letter No. F. 67/30-R. of 24th June 1930, asking for the views of the Government of the Punjab on the recommendations of the Indian Statutory Commission.

2. The memoranda which I am directed to enclose are divided into two portions. The first Enclosure A, contains the views of His Excellency the Governor, Sir Geoffrey de Montmorency, K.C.S.I., K.C.I.E., K.C.V.O.,

C.B.E., I.C.S., and of the Hon'ble Member for Finance, Sir Henry Craik, Bart, C.S.I., arrived at after an informal but detailed discussion of the second volume of the Report with the non-official members of Government. The second, Enclosure B, contains the views of the non-official members of Government recorded after the official views had been in their hands. The Hon'ble Member for Revenue, the Hon'ble Khan Bahadur Captain Sikandar Hayat Khan, M.B.E., formally expresses his concurrence with the views of the official Members, subject to his minute in enclosure B.

3. With regard to the request contained in paragraph 5 of your letter for an estimate of the reception which the recommendations of the Commission have received in the Province, the Punjab Government observes that the first impression given by a review of the opinions expressed in the Press or otherwise (which, as will be explained later, are the opinions of a very limited number of people) is that the report of the Statutory Commission has been received with universal and unqualified condemnation. To disentangle from this view the various threads of opinion, it is necessary to bear in mind that the majority of those who have any appreciation of the situation, are pre-occupied with the object of securing for their respective communities the best possible place in the new constitution. From this point of view the element of bargaining is vital; any expression of satisfaction would, it is felt, be regarded as tantamount to an abandonment of further demands; and when this sentiment is coupled to that general tendency to violence in expression which is a feature of the popular press, it is possible to regard the most trenchant condemnation of the report as really meaning no more than that it is desired to press strongly for further concessions; and if this is true of the conflict between various communities, it is not less so of the criticisms levied by liberal opinion as a whole against the provisions intended to maintain the control of the British Parliament. Further, in appreciating the general current of opinion the Punjab Government bears in mind those very true words which end the first volume of the Statutory Commission's Report, where emphasis is laid on the strength and intensity of the demand among all educated Indians for equality with Europeans, and on the resentment aroused by any suspicion of differential treatment. The result of this on the one hand is the demand among

all educated classes alike for the position of equality for India among other nations which may be described by the convenient if vague expression ' Dominion Status '. This on the other hand is qualified to a degree which varies enormously by a mental reservation that too much must not be sacrificed for it. This double tendency leads inevitably to inconsistency, as we will find the same persons while they are thinking of national equality brush aside as bogies the considerations which point to safeguards; while at another time when they are thinking of the actual future which faces themselves and the members of their particular class or community, they insist that safeguards should be provided, although the form they take is too often that of the dominance of their own community.

4. Passing to criticisms on the specific proposals of the Commission we find that they fall into two classes corresponding with these two distinct points of view. On the one hand they are what may be called liberal or nationalist criticisms directed against anything that appears to maintain the control of British Parliament through the bureaucracy, or to prevent the freest exercise of what are regarded as democratic principles. The second class of criticism may be described as the communal in which each community protests against the position of inferiority to which it considers itself to be subjected or the lack of recognition of the need for prominence which its particular minority requires.

5. In the provincial sphere, if the transfer of all subjects to Ministers has been received with satisfaction, care has been taken not to stress it. This may be due partly to what has been described above as the bargaining idea, but is also partly due to a deep rooted suspicion of any officially sponsored concession falling short of what it might have been in individual opinion. Perhaps the Punjab Government itself must plead guilty to having accentuated this suspicion, by having been the first of the Provinces to recommend the transfer of all subjects to Ministers: for we detect the feeling that a proposal which has been made by officials must have a catch in it somewhere. Apart from this general distrust, the proposal of the Commission which has been most strongly attacked is that of the official member in the ministry. It is felt that behind this lies the intention that the transfer of power should be made illusory by giving this

member the portfolio of law and order. Mild objection is also taken to the proposal to appoint a council Secretary, probably as a part of that general suspicion of the permanent official which is by no means confined to India, though this is mitigated by practical acquaintance with the fact that he is indispensable. Another objection is to the proposal that only the Ministry as a whole should be liable to censure. As the Statutory Commission has pointed out, popular institutions in England only work because the Cabinet dominates the House and not the House the Cabinet. This is a situation which even in England the back benches find it hard to bear, and is one which will never be popular.

6. More marked is the objection that is taken to the powers given to the Governor. It is believed, though without any justification, that these are more extensive than those which he at present exercises, and it is noteworthy that although no satisfactory protection for minorities can be found except through the powers of the Governor, and although in practice the appeal to such powers is almost instinctive to the Indian people, the critics do not welcome these powers as a means of protection. The reason of this no doubt lies in the theoretical liberal objection to the existence of autocratic powers, coupled with a somewhat naïve belief in the efficacy of protection by constitutional enactment. A great deal of the interest in the protection of minorities turns round the Land Alienation Act which all agriculturists desire to be placed out of the power of a Central Government to amend and which urban interests desired to be declared unconstitutional.

7. As regards the Centre there is general nationalist criticism in which all communities join of both the separation of the Army and the irresponsible nature of the Central Government. As regards the latter it is unnecessary to expatiate. The objections from the nationalist point of view are obvious, that the constitution does not provide (*e.g.*), for commerce and finance being administered in accordance with Indian interests, and that it contains in itself no promise for a future day when responsible Government in the Centre will be given. At the same time there are indications that the Muslims feel some relief that the proposals have not taken the form of a Cabinet responsible to a Central Legislature with a

Hindu majority. With regard to the Army there is a very general sentiment against its removal from the purview of the Central Legislature and of the Government of India though some sober thought recognizes that this was inevitable in transition; and it is felt that this condemns India indefinitely to a situation in which it will be dominated by a foreign army. Moreover, the deepest suspicions are felt on the sincerity of the intentions about Indianization. The argument that so long as British officers and troops are necessary in India they cannot be under the orders of a Dominion Government is hardly understood, and is regarded purely as the outcome of racial pride. And it may be true that there are those who shrewdly believe that if it is embarrassing for India to be deprived of the British Army, it will be equally embarrassing for England to have the Army returned on her hands, and that it is not beyond the scope of bargaining to retain its services on better terms.

8. The federal constitution of the Central Legislature is attacked more on communal than nationalist lines. No doubt the Hindus who are unanimously opposed to federalism base their arguments on the undemocratic nature of the proposal, on its tendency to hinder the national unity of India and on the design which they profess to see beneath it of preventing the voice of India being heard; and no doubt there is some genuine expression of nationalist feeling behind this; but it is impossible to resist the conclusion that the bitterness of their opposition is largely prompted by the fact that the federal system makes impossible the domination of India by the Hindu intelligentsia. The Muhammadans on the other hand seem to be divided on the question of indirect election; some favour it: but urban Muhammadans seem to entertain a suspicion that it will deprive the urban classes of a fair representation in the Centre; but all favour federalism from the feeling that local interests (that is to say Muhammadan and agricultural interests) would not be safe under a popular Assembly directly elected and composed chiefly of Hindus.

9. On the purely communal question opinion follows stereotyped lines, on which it is unnecessary to deal at length as the main positions of the various parties have been fully expressed. There are no signs (and it is hardly

reasonable to expect them) of any mitigation of the full Muhammadan claim for separate electorates, continuance of minority weightage, and majority representation for themselves where they are in a majority of population: Muhammadans also express themselves dissatisfied because Sind is not to be separated from Bombay, the North West Frontier Province is not given full provincial status and nothing is done for Baluchistan. At the same time, many who are in a position to gauge the feeling of the community are of opinion that they are not so dissatisfied with the proposals as for bargaining purposes they make it appear. The Hindus on the other hand are genuinely concerned at what appears to them to be the perpetuation of Muhammadan rule in the Punjab without a counterbalancing power of control from the Centre. The Sikhs retain their view that if there are separate electorates they should get as much weightage as any minority community elsewhere, and in particular adhere to the claim for a third of the Provincial seats. They share with the Hindus their fear of Muhammadan rule in the Punjab.

10. So far we have only dealt with the opinions expressed in the press and by the more vocal and politically active section of the intelligentsia. Turning to other classes which are more numerous and of solid importance in the Province, the landlord classes have protested against the suggested abolition of special landholders representation and the suggestion to tax agricultural incomes; but apart from this, there is no indication that the great bulk of the rural (or indeed the urban) classes have any real information or views regarding the recommendations; and the majority of the district officers stress the point that their local rural notables know little or nothing about the report, and that even among the urban intelligentsia there are few who have attempted to make themselves acquainted with it. Copies of opinions received from the Commissioner, Lahore, and the Deputy Commissioners of Hoshiarpur, Jullundur, Gurdaspur, Gujranwala, Amritsar, Muzaffargarh and Multan are enclosed. These are generally typical of the reports received and provide an interesting picture of the attitude of the bulk of the people of the Province.

ENCLOSURE A.

Memorandum containing the opinions of the Official Members of the Government of the Punjab on the recommendations of the Indian Statutory Commission.

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I.—INTRODUCTORY.

(REPORT, PART I.)

The Indian Statutory Commission has observed that the constitutional system which it has propounded must be judged as a whole; and the more closely we have examined the scheme, the more forcibly we are struck with the close interrelation between the parts and the whole and with the repercussions in other features of the scheme which criticism of one or more portions in details inevitably involves. We feel that before proceeding to a detailed discussion of the various proposals put forward, we should consider the general scope of the Constitution which has been suggested for the governance of the Indian Empire.

2. We are convinced that the Commission is right in holding that if India is to take its place in the Commonwealth of Nations, which form the British Empire, an All-India, and not merely a British Indian, solution for India's constitutional problem must be sought. We are fully agreed also that whatever constitution is now devised should be elastic in frame, and contain within itself

the seeds for future adjustments and developments, obviating periodical enquiry by any outside agency into new forms of growth. We shall now proceed to examine these two fundamental propositions.

3. As regards the former, the position of the States is in itself a powerful argument in favour of recourse to the federal plan as an ideal for an All-India Constitution, even though the complexities involved may tend to retard early and complete realization. The perspective for the whole structure which the Commission presents is the organization of the Indian Empire on a federal basis, of which the constituent parts will be the provinces in the immediate future and the States at some, probably more remote, future date; but delay in accretion of the latter, we observe, need not retard the immediate completion of the federation of the provinces for the purpose of a Central Government in British India. So leaving aside for the moment the question of the inclusion of the States, we may proceed to examine the relation of the provinces to the Centre. This involves an issue of primary importance between the merits of a Federal Constitution on the one hand and of a Unitary Central Government on the other. We feel that in this matter it is easy to fall into the mistake of laying excessive stress either upon historical parallels and precedents elsewhere or upon theoretical principles. An argument against federalism, which is commonly put forward, is one of a theoretical nature. A federal constitution, it is pointed out, is normally one in which States, that are already sovereign, agree to surrender a portion of their sovereign rights to a central body; and such a constitution, it is argued, can have no relation to the provinces of India which are not, and have never been, sovereign bodies, but, on the contrary, are and have always been creatures of the Central Government. To this in the field of political theory it may be replied in the first place, that though the provinces are no doubt the creation of Parliament, they are not, and have never been, the creatures of the Government of India, except in so far as the latter exercised supervision, direction and control over them as agent of a Secretary of State responsible to Parliament. Further, because the Government of India Act gives the provinces rights and powers which cannot be taken away by the Central Government, they are now *vis-a-vis* the Central Government invested to some extent with the attributes of sovereignty; and finally it may be urged that in so far as Parliament has divested itself of the intention to interfere with the administration of transferred subjects, to that extent (so far as the peculiar constitution of the British Commonwealth permits) Parliament has endowed them with elements of sovereignty. From another aspect it is better to build up from below by the natural development of items already in the practice, within a considerable sphere, of representative and self-governing institutions. But in truth the question is not one for theoretical discussion, for whatever the position that has been created by the Government of India Act, it may still be altered by Parliament; and the question for consideration is whether here and now the

process should be continued of investing the provinces with the attributes of sovereignty, or whether Parliament should retrace its steps, and create in India a unitary Government from which the provinces will hold all their powers by delegation. This is a question which we consider should be decided on its merits without regard to the subsequent inclusion of the Indian States in an All-India federation; because the prospects of that federation are so remote that they ought not, in our opinion, to stand in the way of making, as soon as practicable, whatever may be considered the best constitution for British India. In this controversy the Punjab Government in its Memorandum prepared for the use of the Statutory Commission has already given its verdict in favour of the federal system by which the powers of provincial Government are derived by direct delegation from the British Parliament, and the relative position of the spheres of the Central and provincial Governments respectively shall be clearly defined by a Statute; and to this general position, in which we are supported by the authority of the Statutory Commission, we adhere. This seems to us the natural and logical road of the development of what has already been established in the first stage of the reforms. We are not unconscious of the argument which lays stress on the fact that in past history the danger of India has been the centrifugal tendency; but we feel that modern communications are in themselves a sufficient guard against that peril, and that what is to be feared to-day is the risk that a majority chosen in very large and diffused constituencies from the whole extent of a sub-continent may seek to impose its will against local feeling, as expressed in provincial legislatures, whose members are elected from smaller and more concentrated constituencies and are in closer touch with their electors, and in spite of local conditions. We are fortified in this view by the fact that there have been in the past ten years several incidents illustrating this tendency.

4. In our Memorandum we left the subject at the point of expressing our opinion in favour of the general position that the provinces should be federal bodies, and expressed no opinion as to the method of their confederation. The proposals of the Statutory Commission now take us a step further and definitely propose that the Central Legislature should derive its political tinge from the provincial legislatures, inasmuch as it is elected by them. In spite of certain obvious disadvantages of indirect election we are in favour of this proposal, because it emphasizes and establishes beyond dispute the federal nature of the Indian Constitution. A Central Legislature elected independently by direct election might claim not only a separate existence but also an overriding authority from that of provincial legislatures; but a body elected by these legislatures to represent them obviously draws its inspiration from them, and will ensure that central activity for common purposes will ordinarily be in harmony with the general sense and sentiment of the constituent parts.

5 As regards elasticity for development and adjustment, as far as the provinces are concerned, we consider that the provision made for possible changes in the composition of the legislature,

referred to in paragraphs 95 and 109 of Volume II of the Report, is adequate. There are other matters of somewhat lesser relative importance in which the discretion to change or to use alternative methods seems to be sufficiently provided in the project. We have received the criticism that the relations between the Central and provincial Governments as regards respective spheres of activity are too static. This must necessarily be so, if the danger of one authority trespassing on the other is to be avoided. Nevertheless, the provisions of paragraphs 184 to 188 of Volume II, where, by agreement, fields of mutual interest can be enlarged and opportunities for co-operation secured, and the method explained in paragraph 306, whereby the allocations of particular taxes to the Provincial Fund can be changed by a special procedure necessitating a very large majority of agreement, appear to us to be instances where, by mutual arrangement, really necessary adjustments in interrelations can be secured.

6. Leaving aside for the moment the examination of the scheme for the Central Government, we observe that the Commission has not been able in this case to paint in the colours which will form the final picture with so sure a hand. The close connection of the activities of the Central Government with matters of broader interest, which impose a certain burden upon a Parliament charged with imperial and international obligations and other special responsibilities, the uncertainty of the time and manner of the merging of the Indian States in the federal whole, the period needed for the growth of self-sufficiency in defence, the necessity for safeguards while the constituent provinces of British India are being established in their new and wider field of autonomy in provincial affairs, all point to a transitional stage in which the final form of the eventual metamorphosis of the centre cannot be accurately delineated. Meanwhile, the Commission has visualised a federal Assembly with a composition of a very different nature to that of the present Legislative Assembly and with inevitably increasing and weightier reactions on the Executive; and the provisions of paragraphs 169 and 173 of Volume II of the Report vest the Governor General with a discretion so to choose his Executive Council that it may increasingly include in its unitary authority "responsive" members, connected with, though not responsible to, the Legislature. It is at this point that the uncertainties of transitional conditions referred to above compel the Commission to leave their picture unfinished; and whatever comments may arise as regards details, we feel that the immediate difficulties, of necessity, restrict further vision.

7. Before we pass on to examine the scheme for the provincial system of Government in detail, we desire to express general agreement with the observations regarding the needs for safeguards at this stage and at the present time, which are contained in Chapter 5 of Part I of Volume II of the Report. We are convinced of the reality of the menace which the length of India's frontiers both by sea and land represent; and subject to some observations regarding provincial militias, which we will record later, we fully

recognize that the need of an army in India sufficiently strong and well equipped for the task of defence and the maintenance of internal security is a fundamental requirement. We likewise agree that for many years to come it must contain British troops and British officers serving with Indian Units. We shall have something to say later as regards what we conceive to be the general sentiment concerning the Indianization of the Army and the building up of a Dominion Force.

8. We also agree with the Commission that, while conditions are in the state of progress towards complete self-government, the maintenance of law and order must remain a matter of special concern; and that, in this connection besides a stable Central Government, there will be need for some special powers to vest in the Governor General and Governors, in the exercise of which they will be responsible to Parliament. Similar provisions will likewise be needed to ensure the power to act effectively in an emergency and to prevent the breakdown of regular administration and its lapse into a state of anarchy.

9. With the development of full self-Government we hope the day is not far distant when the problem of minorities will cease to loom so large as it does at the present time; but as things are now, it is generally acknowledged to create a serious situation, for which a satisfactory palliative for the nonce is not forthcoming from within, but must be sought from some impartial outside source. For some time to come it appears clear that special power to interfere to protect the weak should be vested in the Governors and Governor General; and we believe that only by this method can we secure for these classes effective protection. The other device of a recital of their rights in Statute, supplemented by facilities for recourse to a judicial body for their interpretation and enforcement, is in our judgment ineffective and impracticable.

II.—PROVINCIAL REDISTRIBUTION.

(REPORT, PARAGRAPHS 37 AND 38.)

10. We must confess that we are puzzled as to the exact implications of the recommendations of the Commission under this head. It is stated to be a matter of urgent importance that the Government of India should set up a Boundary Commission to investigate the main cases in which provincial readjustment seems called for, and endeavour to work out schemes with a view to seeing how far agreement is possible.

11. It is not clear to us whether this Commission is to be set up forthwith and whether decisions on its recommendations will be awaited and reached before the introduction of the new Constitution. If this is so, it must inevitably delay the consummation of the first steps of the latter, as the decisions would undoubtedly affect in a marked degree the details of arrangements for Central and provincial legislatures, service cadres and provincial finance.

The consequent delay in the introduction of the reformed constitution would, in our view, be politically most undesirable.

12. The other alternative, namely that we should proceed to consider and shape reforms dealing with the provinces as now constituted and hold the boundary enquiry subsequent to the introduction of the new constitution, involves some almost equally inconvenient results. The question of the separation of Sind is a point of insistence in the creed of a large section of Muslim opinion; and in some quarters the problem of political balance will not be considered as solved until this question is decided. Boundary enquiries are, generally speaking, unsettling; and past experience has shown that they possess some special property for mass irritation. The new reforms could hardly start in more unfortunate conditions if the first years of their working are to be passed in an atmosphere of the agitations and uncertainties which boundary enquiries invariably engender.

13. We fear that we have raised difficulties without giving helpful suggestions towards their solution; but one thing we wish to make clear is that no need is felt for any enquiry or readjustment in this Province; and we venture to urge in the general interest that if and when a Boundary Commission is constituted, its attention should be strictly confined to really outstanding cases, such as Sind, the Ooriya country, Sylhet and Cachar. We feel that a roving brief can only result in general unsettlement, in bringing dormant volcanoes into activity in British India and in the revival of numerous claims by Indian States to tracts long since included in British India.

14. If an early solution of the Sind and Ooriya country problem could be devised and subsidiary enquiries into other cases could be postponed until after the new constitution had settled down, the political exigencies of the situation might possibly be met.

III.—THE GOVERNORS' PROVINCES.

(REPORT, PART II.)

A.—*The Provincial Executive (Chapter I).*

15. Turning to the question of the form of Government to be established in the provinces we accept the general principle laid down in paragraphs 46 and 47 whereby there will be established in each province a Unitary Government responsible to the legislature over the whole provincial field. In pursuance of this general principle, after a most careful consideration of the implications as regards Law and Order, Finance and Revenue in particular, we agree to the transfer of all subjects in the provincial field. We also agree to the principle of joint responsibility of the Cabinet, and to its corollary that the legislature can only censure the policy of the Cabinet as a whole and not that of an individual Minister. We also agree that it should be provided in the Constitution that Ministerial salaries are not liable to be reduced or denied by a vote

in supply but should be alterable only by statute; and finally we think that the appointment of Under Secretaries is probably desirable and would help to consolidate the position of the Cabinet in the House.

16. As regards the composition of the Ministry, the Punjab Government in Part II, paragraph 40 of its Memorandum for the use of the Statutory Commission recommended that there should be included in the Cabinet an official member partly to introduce the element of administrative experience, and partly to give the Governor the assistance of an official colleague; and in paragraph 48 the Statutory Commission has made the inclusion of one or more such members optional with the Governor. The two proposals are essentially different. That of the official members in the Punjab Government's Memorandum envisaged that the official member would hold office in successive Ministries and would be allotted an unimportant portfolio. This does not seem to be inherent in the proposals of the Statutory Commission; indeed the implication of paragraph 64 of Volume II of the report is that he might be entrusted with the portfolio of Law and Order. We see the difficulty which may be felt in provinces, such as the Presidencies, with a Governor previously unacquainted with the details of Indian provincial administration and conditions, if there is no experienced technical Indian administrator to place considerations before the Cabinet, and we realize that in these provinces it may be necessary to retain this discretion, but, after careful thought, we consider that where it can be dispensed with, it should not be employed; and we would deprecate its use in this Province under present conditions. There is no doubt that the presence of an official in a Unitary Cabinet introduces an element of unreality into the joint responsibility of the Cabinet and their relations with the legislature. Nor will the position of such a Minister be easy. He may constantly have to subordinate his considered opinion based on his experience of administration to another view. If he goes out with one Ministry and returns with another, he is likely in popular estimation to come to be considered the unlucky genius of the Cabinet. While if on the fall of a Ministry he reverts to official duties, he stands the risk of being considered *quâ* an official as influenced in favour of views which prevailed in the Cabinet in the time of the late Ministry. The inclusion of the official member is a feature of the proposed Constitution which has been specially singled out for attack, and has and will be used as an argument to prove that the responsibility of Cabinet is meant to be but an illusion. With the wish that responsibility in internal and provincial affairs should be as complete as circumstances permit, we think it very desirable that no shadow of ground should be left for this allegation, and, after full consideration, are prepared to abandon the official member, considering that both requirements can be met by an amplification of the proposal made in paragraph 51 for the appointment of a Secretary to the Cabinet. In the altered conditions the Governor will feel difficulty in retaining sufficient touch with the departments and in being supplied with sufficient information to judge whether he is fulfilling the special

responsibility laid on him by his Instructions, for which he is endowed with special powers. The new element of joint responsibility in the Cabinet may also place Ministers in a position of difficulty which hardly exists at present. It will be desirable in the interest of the working of their joint responsibility to increase the volume of Cabinet papers and elaborate schedules of decisions and orders in different departments which are circulated for the information of the Cabinet. An individual Minister may not infrequently require recourse to some agency by which he can procure additional information about some line of policy in administration in a department of which he is not in immediate control. He may desire this information for the purposes of discussion with a colleague or prior to moving that in the interests of joint responsibility some matter should be ventilated in Cabinet discussion. For these purposes a Cabinet Secretary with enlarged functions will be useful. We think that this official should be called Principal and Cabinet Secretary. He should attend all Cabinet meetings and should also have the right of calling for papers from any department. He should be permitted to set forth verbally the administrative information and considerations pertaining to any question in the Cabinet (in which he will not, of course, have any vote or position as a member). He will be responsible for 'vetting' the completeness of the departmental summaries on questions coming up before the Cabinet for discussion and decision. He will keep a record of the proceedings of the Cabinet. He will be at the disposal of the Governor and the Ministers in the Cabinet for procuring informations as regards action which is being taken in departments on any particular matters; and he will, when the Governor does not preside at a Cabinet meeting, place the proceedings of the Cabinet before the Governor, and convey his views to the Cabinet. While we have considered and rejected the alternative proposal that it should be open to the Governor to appoint officials as Ministers, we are of opinion that powers should be reserved to the Governor to appoint as Minister a non-official who was not an elected member of the legislature, and it should be a condition of his tenure that he should find a seat within six months of his selection. We consider that this discretion should rarely be exercised, and only used when the Ministers chosen urge the inclusion in the Ministry of some prominent person who by accident or in the chances of election has failed to secure a seat but who is otherwise marked out for useful and popular service in a Ministry.

17. As regards the selection of the Cabinet, we are in general agreement with the views expressed in the second portion of paragraph 55 and particularly with the proposal that the appointment of a Chief Minister should be left optional. As already proposed in paragraph 41 of Part II of our Memorandum, we think it desirable that the representatives of different communities should be included in the Cabinet, but we do not think it possible to do more than to provide in the Governor's Instructions that he should make this attempt. The formula in the Instructions can hardly go further than that suggested in the Memorandum of the official

members of the Punjab Government submitted to the Simon Commission, namely that until the development of parties on another basis than that of community has been more firmly established, it will be still desirable for the Governor, so far as possible, to endeavour to include members from the three leading communities.

18. With regard to the meeting of the Cabinet (paragraph 51), we consider that it should be left to the Governor's discretion whether he should preside or not, but we think that if he does preside, he should not exercise a vote or casting vote. We agree with the views expressed in the last five lines of paragraph 52 that there should not be in the new Statute any counter-part of sub-section 1 of Section 50 of the Government of India Act, but we think that it should be within the power of any Minister to ask for a note of dissent to be recorded and subsequently to write a minute of dissent.

19. With regard to the powers of the Governor, we agree, as we have made clear in our introductory remarks, that in certain matters safeguards are necessary, and that there is no other way of securing them except by conferring power on the Governor in these special and restricted cases to require action to be taken otherwise than on the advice of his Ministers.

20. First as regards the authority under which he will act, we observe that it is proposed in paragraph 50 that he will be subject to the superintendence, direction and control of the Governor General; and from paragraph 350 it appears that in these matters the Governor General will act under the orders of the Secretary of State on behalf of Parliament, but that Parliament will restrict its powers of interference in provincial matters to those subjects in which the Governor is given an overriding power. We agree to these proposals, but observe that the third item in paragraph 50 is hardly a case for an overriding power but really for a power to secure appropriation for a liability of Government in respect to non-voted expenditure. This can perhaps be secured without overriding powers, merely by making such expenditure a first charge in a provincial budget. It has been urged that the drafting of the fourth of the subjects mentioned in paragraph 50 will have to be carefully worded to prevent the reintroduction of the power of Parliament over the whole provincial field. We assume that its real meaning is that when the Governor General in Council had addressed the *local* Government as regards the matters within its sphere, enumerated in paragraph 182, and has elicited no response or unsatisfactory replies, if the matter is sufficiently serious, the Governor General in Council will move the Governor General to address the Governor to get to grips with his Ministry or use his special powers. This might involve the stage of advice to his Ministry or dismissal of the Ministry if it disregarded advice, but it would also include a discretion to override the Ministry by an order addressed to the executive agency concerned to have certain action taken or to desist from certain action relating to matters enumerated in paragraph 182. Subject to these observations, we agree to granting the Governor an overriding power for the five purposes enumerated in paragraph 50. To these we

could add that recommended in paragraph 50 of the official Memorandum to the Simon Commission of securing the financial stability of the province. We observe that this course is recommended in paragraph 99 of the report of the Punjab Provincial Committee, and we think that the issues are so important and the damage that might be done by ill-considered action so irremediable that no theoretical consideration should stand in the way of these safeguards. We do not, of course, suggest any powers such as now exists for holding up of individual new schemes or restoring grants (except in an emergency as contemplated in the Commission's report) for special reasons or for carrying on departments. Interference of this kind would react, however salutary it might appear in the personal view of the Governor, on the reality of responsibility. What we have in view is some power to defer too hasty actions in the interests of the larger issues of financial stability in such cases as relinquishment of substantial revenue or the acceptance of large schemes involving progressive recurring revenue expenditure, which could clearly only be financed eventually by recourse to extraordinary receipts or loans. There is, of course, a grave danger of severe pressure on the Ministry to abandon revenue particularly land revenue and water rates.

21. Finally, we agree to the proposed powers given to the Governor in paragraph 65 to meet a breakdown of the Constitution. The Governor after due consultation with the Governor General should be final judge of the existence of an emergency.

B.—The Provincial Legislature (Chapter 2).

22. *Paragraph 67.* We agree that the maximum life of provincial Councils should be five years.

23. *Paragraph 68.*—We consider that the proposed size of provincial Councils of between 200 and 250 is, so far as the Punjab is concerned, excessive at this stage. It will be open to the Council to enlarge it later, if need is felt, under the provisions for subsequent constitutional revision. The Punjab Council at present consists of 22 nominated members, 64 elected from ordinary constituencies, and 7 elected from special constituencies. We consider that the number elected from general constituencies should not exceed 150 and the actual proposal, which we make later on, provides for 124 only which with the addition of 10 special constituencies gives the House 134 members. We see no useful purpose which would be served by making the Council larger, and, on the contrary, think that such an increase of size might result in deterioration in the quality of members returned. In the Punjab, with few large industries and with the bulk of the land held by small peasant proprietors, the number of men of a responsible character who have leisure to devote time to work on a legislature, is few.

24. On the vexed question of communal representation we would invite a reference to the views that we expressed in our official Memorandum, Part IV, paragraph 7, *Seq.* In that Memorandum we put forward various alternatives between which we

found ourselves unable to make a definite choice, owing to the existence of doubtful factors, such as the final claims of the various parties in respect of franchise, and the need of giving more precise indication as to what the extension of the franchise proposed involves in itself. We cannot find anything in what has passed since we wrote this Memorandum to enable us to come to a further conclusion. We still find the claims of the various communities apparently irreconcilably opposed in respect of numbers as well as on the question of communal electorates; and while we have explored certain statistics indicating the possible result of doubling the number of electors, we are still not in a position to say with certainty what will be the effect on the electoral roll. We are, therefore, forced to accept the conclusion of the Commission that in the absence of an agreement between the various communities concerned the principle of communal electorates must stand. We postponed to a later paragraph consideration of the number of seats to be allotted to the three major communities.

25. *Paragraph 78.*—With regard to the depressed classes we are inclined to think that the figures given in paragraph 58 of the first Volume of the Commission's report, namely 2·8 millions of the Punjab are exaggerated. Further enquiries made about a year ago by the Punjab Government put them under 2 millions, of whom a million and a half are composed of *Chuhras* and *Chamars*. We also find that these classes are not a pressing problem in the Punjab. Some of them will come into general constituencies through our new proposals for enfranchisement of tenants, and some will get representation in a special Labour Constituency. We do not think it possible to have a special constituency for depressed classes, and believe that their interests would be best served by one nominated representative who might ordinarily be chosen by the Governor from a panel submitted by associations which represent these classes.

26. *Paragraph 81.*—At present there are two non-official European members of the Punjab Legislative Council, one nominated and one elected by the Commerce constituency. This constituency is no longer likely to return a European, and we think that in future Europeans should have two seats in a separate electorate.

27. *Paragraph 83.*—There is at present one nominated representative of the Anglo-Indian community. We now think that there is no need for separate representation for this community, the voting strength of which is low, but the Anglo-Indians should have a choice as to whether they should merge in the category of Europeans or in the general constituencies.

28. *Paragraph 84.*—We think that Indian Christians should have one seat reserved, but are not at present prepared to express an opinion as to whether this should be by a reservation or by a special electorate or perhaps by other method.

29. Turning to special electorates, there are at present 7—3 for landlords, 1 for Baloch Tumandars and 1 each for University, Commerce and Industry. We are impressed by the fact that,

with the extension of the franchise to a portion of the tenantry and a lowering of the rural property qualifications, landholders of the class which stood for the special constituencies may have difficulties in securing representation. We consider them an important interest in this Province, and as we do not propose to have a Second Chamber, we would retain special representation for them in the Council. According to the numbers of those qualified in the landlord constituencies, the proportion of seats should be 2 Muslim, 1 Sikh and 1 Hindu seat. The Baloch Tumandars are a problem. It is clearly wrong to look at this as a special electorate of 9 persons only. The Tumandar by Baloch custom is the acknowledged head of his tribe. His tribe lies scattered partly within and partly without the British Indian administrative boundary; and the Tumandari system plays an important part in the defence of the frontier and the peace of this portion of the Punjab. Increasingly Punjab cultural and material amenities are spreading in the Punjab transborder and attaching these wild people to the province through their Tumandars by an influence of far greater value than the fear of armed forces. The Balochis within the administrative boundary have some chance of representation in the general electorate of the Dera Ghazi Khan district. Those without in the tribal area, numbering more than 30,000 have none; and it seems to us important to keep them represented through their acknowledged leaders. We would, therefore, retain the special seat for the Baloch Tumandars. We would retain the University and Commerce constituencies; but we would eliminate the Industry seat, which has not given in the past any material essentially different from that representing Commerce; we think it necessary to add a seat for labour which has become important of recent years, and, as we have stated above, we propose adding one seat to represent the depressed classes.

30. We are now in a position to deal with the question of communal representation in the Legislative Council. There are at present 64 Ordinary and 7 Special constituencies. Of the ordinary seats 20 are assigned to non-Muhammadans, or (as we would prefer to express it for convenience) to Hindus, 32 to Muhammadans and 12 to Sikhs. To these we may add some special seats taking account of the community by which the seat has been invariably filled—

Hindus (Landholders general, University and Industry)	3
Muhammadans (Landholders and Tumandars)	2
Sikh (Landholders)	1

The elected communal composition of the Council has been therefore—

Hindus	23
Muhammadans	34
Sikhs	13
Total	70

The position of the Sikhs creates a special difficulty. On historical grounds, and by reason of their contribution to the defence of the country, it is felt that their small minority (11 per cent. of the population) should continue to have some distinct weightage in the Punjab Council. They will not get representation in any other province; and under the Commission's proposals their representation in the Federal Assembly will depend on the amount of their representation in the Punjab Council. In the latter the Muslims look upon them as an ally of the Hindus, who though in a minority are a substantial minority (31 per cent. of the population). The Muslims feel that in allowing weightage the result should not be to deprive them (55 per cent. of the population) of a majority over Hindus and Sikhs combined. The Muslims point out that in giving weightage to Muslim minorities in other provinces, the process has not endangered a substantial and continuing Hindu majority. The Hindus on their part urge the effect upon their interests of a perpetual Muslim majority in the Punjab and the need for the protection of their minority. It is, therefore, a very difficult matter to satisfy the sentiments and aspirations of the parties concerned, while at the same time giving effect to the special considerations which apply in this Province to the Sikhs; but we feel that we cannot go so far as the Commission in paragraph 85 for it seems to us illogical to deprive a population majority entirely of their position.

31. We now put forward a proposal to make the following additions to the general constituencies:—

	Previous.	Addition.	Total.
Hindus	20	+ 16	= 36
Muhammadans	32	+ 31	= 63
Sikhs	12	+ 11	= 23
Europeans . . . . .	...	2	= 2
	<u>64</u>	<u>60</u>	<u>124</u>

thus giving a total of 124 for general constituencies. The addition which we make is to double the existing representation in general constituencies but to deduct from the addition the figure which each community may hope to gain from the special constituencies which we propose. We have added two to the Muslim addition to secure the principle, to which we have alluded in the closing sentence of the previous paragraph. We now add the figures for special constituencies which may be allocated to respective communities as follows:—

Hindus (University, Commerce, Depressed classes and landholders)	4
Sikh (Landholders)	1
Muhammadans (Landholders—Tumandar seat)	3
Christian	1
Labour (indeterminate)	1
	<u>10</u>

The total composition of the House will thus be:—

Muhammadans	63+3=66
Hindus	36+4=40
Sikhs	23+1=24
Europeans	2 2
Christian	1 1
Labour	1 1
	<hr/>
	184
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32. We do not pretend that this arrangement will give full satisfaction to all (or perhaps any) concerned; but we think it fair, because—

- (a) it gives Muslims, the majority community, a majority of 2 over Hindus and Sikhs combined (66: 40: 24);
- (b) eliminating the 2 European seats which may be taken to have no communal bias, in the remainder of the House the percentage will be Muslims 50, Hindus just over 30, Sikhs just over 18 and others (Christians and Labour) under 2.
- (c) In the House as a whole, taking in all seats, the proportion will be, Muslims just over 49 per cent., Hindus just under 30 per cent. and Sikhs just over 18 per cent.; and on their present voting strength this gives to Muslims a decided increase while the representation of Hindus and Sikhs will be below that which their present voting strength might warrant.
- (d) In sum total Muslims get more than their present voting strength but less than their population strength. Sikhs get more than their population strength but less than their present voting strength. Hindus get slightly less than either, and suffer in this respect by giving weightage to another minority community which often votes with them, but on the other hand they are not exposed to the effective Muslim majority which the population figures would give over Hindus and Sikhs combined.

33. We are not yet able to say in what proportion the various communities will be represented in voting strength in the new franchise, but we observe that in the existing House the average number of urban electors between constituencies of the three communities shows very little variation (Memorandum Part I, Chapter 2, paragraph 26) and it is perhaps reasonable to suppose that with the lowering of the franchise the state of affairs will not be materially altered. As regards the rural constituencies, we are not in a position to give any accurate figures. We have so far explored an extension of the landowners franchise to landowners and Crown tenants paying Rs. 15 land revenue and over, which would increase the rural voters from 5,71,000 to 8,49,000. In that event the

number of voters per general constituency as compared with existing figures will be as follows:—

	Present.	Proposed.
Hindus	12,055	10,314
Muhammadans	9,500	7,320
Sikhs	14,300	11,143

The effect, therefore, of lowering the franchise would probably be to some extent to decrease the proportionally larger number of Sikh voters, and this tendency will possibly be accentuated by a further proposal to enfranchise tenants as to which we have at the moment no figures.

34. *Paragraph 86.*—We agree that the official *bloc* should disappear, but we think that the legislature should include a Law Officer to assist in matters of drafting and other legal questions. This officer should be nominated and should not exercise a vote, but should be entitled to address the House.

35. *Paragraphs 87, 88 and 89.*—We retain the special representation of University and Commerce seats and add Labour on the ground that only by so doing can we assure that interests which are vital to the growth of the province have a representative voice.

36. With regard to the great landlords, as we have already set forth, we are definitely of opinion that their seats should be retained irrespective of the number of the land-owning class which may succeed in entering the Council through the general constituencies. We think that the proposal to introduce members of this class by nomination would be invidious, opposed to the general elective principle, and likely to expose members thus nominated to the imputation of being not representatives of the people. One argument for the retention of these seats, which applies also to other special seats and has in our opinion great force, is the desirability of providing what may be termed safe seats, such as in the United Kingdom are provided by the Universities, the City of London and constituencies with an overwhelming party majority.

37. *Paragraphs 91 and 92.*—We are in general opposed to nomination of members, and the foregoing proposals have confined the remote possibility of this procedure to cases in which it may be found impossible to find a constituency, namely the depressed classes and possibly Indian Christians and Labour.

38. *Paragraph 93.*—We have already expressed our view that the Cabinet should be selected from the Legislature, and it will, therefore, be necessary to maintain the rule that the Minister, who is not already a member of the Council, must secure election within a period of six months.

39. *Paragraph 95.*—We are generally in favour of the proposal by which provincial legislatures will be enabled to amend their constitutions by resolution as proposed in the report.

40. *Paragraph 96.*—The question of the spheres of Central and Provincial legislations will be dealt with later.

41. *Paragraphs 97 and 98.*—We agree in principle that the Governor's power of certification in legislation should extend over the same field as is covered by his overriding powers to control executive action. We have in a previous paragraph suggested that to that field it may be necessary to add the sphere of financial stability. In relation to the legislature a question that arises is whether an additional corresponding power should be exercised for the purpose of securing financial stability in the shape of restoring grants. The necessity might arise as regards provision for assessment or audit staffs. In certain special circumstances the commission propose an emergency power for the Governor to restore rejected demands for grants and to certify legislation if the course was essential for the interest of the province. While this power must for obvious reasons remain, as far as the financial field is concerned it (no doubt) is a question whether, in circumstances not warranting the special action, this would not be better expressed by specifically allowing the Governor to restore grants if in his opinion this course is necessary to preserve financial stability. If this principle is introduced, there will, it may be argued, be probably less occasion to adopt the extreme course of certification in the general interests of the province a course which should only be adopted in the event of a breakdown of the constitution.

C.—*The Franchise (Chapter 3).*

42. We are in favour of the following principles to regulate the extension of the franchise:—

- (1) It is desirable that the disparity between the percentages of enfranchised urban and rural population respectively should be reduced. At present 12 per cent. of the urban male population is franchised and only 5 per cent. of the rural.
- (2) It is considered desirable to enfranchise a portion of the tenants of rural land. At present the rural franchise is based partly on certain special qualifications, such as that of being a headman of a village or a retired soldier, but chiefly on possession of land paying Rs. 25 land revenue. Apart from the small class of occupancy tenants, the rural tenants have no vote.
- (3) As regards the enfranchisement of women, we are of opinion that matters should be left as they are, that is to say, they should continue to have the same property qualification as men in spite of the fact that the number of women which is thereby enfranchised is very small. It is a matter where the growth of public opinion should be left to have play. It should be left open to the legislature to pass a further measure of enfranchisement of women if they so desire after the expiry of the fixed period.

- (4) We have considered the proposal of an additional franchise being given to persons who have passed the Matriculation standard of any University, but have not found ourselves able to accept it.

43. Finally, we consider that applying the above principles the property qualification should be lowered but not so far as to result in more than doubling the present number of voters. The first principle will be preserved if the number of rural voters were doubled and the number of urban voters increased by half. The present number of rural voters is 5,71,000 of whom 3,50,000 are landowners paying revenue of Rs. 25 and upwards. The addition of voters paying between Rs. 15 and Rs. 25 would add 2,61,000 Total 8,32,000. This falls short of doubling the existing number of voters in rural constituencies by 3,10,000. While this number, if assigned to tenants-at-will, might be excessive, the further addition of landowners, paying between Rs. 10 and Rs. 15, would add 2,69,000, which would leave only 41,000 for tenants, which would be too little, assuming that the maximum number of rural votes contemplated will be 11,42,000. It is possible that the lowering of the landowners franchise to Rs. 12 might give a fair allotment of the balance of 3,10,000 to tenants, but the final determination of the question can only be made when we have figures showing the effect of the enfranchisement of tenants. This will be a particularly difficult question in the Punjab where cash rents are the exception and where it is not the practice to record in the revenue papers the cash equivalent of rents paid in kind.

D.—The Second Chamber (Chapter 4).

44. We consider that the balance of argument is against having a second chamber in the provinces—at any rate so far as the Punjab is concerned. We remain of the opinion that a Legislative Council expanded even to the moderate dimensions we have proposed will absorb for some time to come all that we can reasonably expect to secure in the way of persons fitted for the exercise of legislative functions; and that the constitution of a second chamber would deprive the popular chamber of talent which it needs, and tend to make it more unstable. At the same time we are not unaware that a provision of this kind may be needed in other provinces which are larger and more populous and where persons connected with special interests, such as Commerce, Industry and large landed interests are to be found in greater numbers; and if in a province, where a need for an Upper House is felt, the power is not given and used now, it seems unlikely that, as time goes on, in the course of constitutional development a single legislative chamber would at a later stage impose on itself the incubus and check of an Upper House, though we believe there have been instances of this kind in some other countries. It is possible that an Upper House might also obviate in some cases the use by the Governor of his special powers regarding legislation. For these reasons we would not exclude the discretion of having an Upper House in a province, though we are of opinion that this would and should not be used in this Province.

45. Leaving the matter open, it may be urged, will encourage dissimilarity in structure between various provincial Constitutions. This, however, seems bound to occur in any case. Probably the numbers in provincial legislatures will differ from the start; and assuredly after the first 10 years have passed, the discretion for effecting constitutional revision by resolution will result in some legislatures being constituted on a broader or narrower basis than others.

46. We think that the provision in paragraph 117 of an expert drafting body is hardly a matter of constitutional importance, and can be met by rules of business and procedure. We have, however, in another place suggested that the legislature should include a legal expert.

IV.—THE BACKWARD TRACTS.

(PART III. CHAPTER 2.)

47. In the Punjab the Pargana of Spiti is included in the wholly excluded and the Lahaul Tract in the partially excluded areas. These tracts are not populous; they may still be described as backward. They are cut off from the Kangra district for six months in the year by high snow-bound passes. In spite of these features, however, there seems to us to be little reason any longer to exclude them from the processes of the ordinary administration. Of late the communications with the Kulu Valley, where the headquarter of the Sub-Division in charge of these areas is located, have greatly improved; and we have observed that all the Ministers have visited the valley in the summer months in recent years. We see no reason now to treat these tracts differently from the rest of the Punjab. The policy in the Punjab since the reforms has been increasingly to extend to the more remote and backward parts of the province those opportunities and those amenities, as for example facilities for education, medical relief, public health, veterinary service and agricultural improvement, of which the more central and developed parts of the province have long since been in enjoyment. We see no reason to doubt that, if these tracts are included in the charge of the unitary responsible Cabinet, they may expect to receive a sufficient degree of attention and help. Some difficulties may occur in their representation in voting in a constituency, if elections take place during the winter months; but this situation, though anomalous, is not necessarily a bar to our suggestion; and we believe that the tracts in question have more to gain than to lose by the course we advocate.

48. Before we leave this subject, we desire briefly to refer to the tribal area on the borders of the Dera Ghazi Khan district. The history of this area is described in paragraph 4 of Chapter I of Volume I of the Memorandum prepared for the use of the Simon Commission, and the method of the administration is examined in paragraph 25 of the same Chapter and in paragraph 46 of Chapter VIII of the same Volume. The system has been

eminently successful, and no other or better method of political hegemony can be suggested for the control of the tribes living in and beyond the Suleiman mountains, outside the administrative frontier of British India; but we feel that sufficient financial responsibility has not been shouldered by the Government of India as regards their obligations for frontier defence in this area. The mountain frontier is 240 miles long; and towards the expenditure which the political control of the tribes involves, the Government of India only pays the Punjab Government a sum of Rs. 42,440 annually—a very meagre amount as compared with the scale of payments in which the Government of India are involved in their own administration of the adjoining areas of Baluchistan and the North-West Frontier Province between which the Dera Ghazi Khan frontier is wedged. Besides indirect charges into which we need not enter, the Punjab Government pays Rs. 1,76,000 a year for the Border Military Police and Rs. 72,000 for the Baloch Levy and sacrifices in annual revenue over Rs. 1,30,000 paid in jagirs and in arms to Tumandars.

V.—THE CENTRE.

(REPORT, PART IV.)

A.—*The Federal Assembly.*

49. As we have explained in the introductory portion of the Memorandum, we are in favour of the system of indirect election by the provincial Councils. As far as the Punjab is concerned, we believe that the method of proportional representation advocated in paragraph 139 will secure fair representation both for majorities and minorities, though not perhaps of some special interests, and that the working of this system is more natural and automatic in its adjustments than resort to the alternative of reserved seats. At the same time if the total number of members in the Federal Assembly were reduced to a figure lower than that stated in paragraph 140—a possibility to which we will later refer—we believe that in the interests of minority representation we should have to adopt the latter method.

50. We do not think it will be possible for a person to be member of both legislatures at one and the same time. If a member of a provincial Council is elected to the Federal Assembly, he should resign his seat in the provincial Council. We agree that the allowances to be paid to members of the Federal Assembly should be non-votable and should fall on provincial expenditure. We approve of a fixed life for 5 years. In our view, subject to an alternative to which we shall refer in discussing the Central Executive, 250 would be a suitable number of members.

51. Considerable doubt was felt as to whether the communal proportions envisaged in paragraphs 143 and 145 would actually result. As regards the latter paragraph, the calculations seem to involve the assumption that all the nominated officials will be

Europeans, which is very improbable. There is a strong feeling among Muslims that their representation should be brought up to 33 per cent.

52. The method advocated proceeds mainly on Federal lines, and tries to secure that the main classes of importance in each Federal unit will receive (whether they are in majority or minority) a due share of representation. As regards communities, Hindus, Muslims, Sikhs (or sub-divisions, *e.g.*, Brahmins, Non-Brahmins and depressed classes), this is likely to be the case. Nor is it unlikely that special interests, such as Commerce, Finance, Large Landholders, etc., will also be fairly adequately represented; but we are very doubtful whether the same expectation will hold good as regards Labour. This is a Central subject; and it seems likely that its problems, as time goes on, will occupy increasing attention in the Federal Assembly, and it appears to us important that it should be adequately represented. Its representation can be secured by nomination in the Council of State; but its presence in that House, mainly concerned in revisory functions, will not secure quite the desired results.

53. As regards the suggestion in paragraph 146, the alternative method of filling a vacancy by holding an election and reserving the seat for the community to which the member vacating the seat belonged, commended itself to us.

B.—*The Council of State.*

54. We are in favour of retaining a second Chamber in a Central Legislature for a country of the size of India. We agree that its term should be seven years. As regards qualifications of members, we are generally in accord with the observations in paragraph 151. In the case of ex-Government servants the requirement might be that the person concerned was drawing emoluments of not less than Rs. 3,000 per mensem at the time of retirement. As regards the number of members, we feel that if the numbers of the Federal Assembly are brought up to the figure suggested in paragraph 140, the numbers of the Council of State should be advanced to 120. If this is not done, the Council of State cannot preserve the same weight as it now possesses in a joint session. If our suggestion is adopted, 66 members might be elected and 54 nominated, of whom not more than 20 might be officials. We approve of the suggestion for allocation of seats which proceeds on the basis of common and equal interest of units and not of population figures as in the case of the Assembly.

55. We are divided as regards the method of election. With a specially highly qualified electorate, such as already exists for the Council of State, there is much to be said for direct election. On the other hand desire for uniformity and for emphasis on the Federal nature of the structure points to indirect election as in the case of the Federal Assembly. We assume in this case that communal inequalities will be corrected by nomination.

56. We do not propose to offer any observations on the problem of the relation of Indian States. If, however, they elect to come into the Federation to the extent of seeking representation in the Central Legislature, we feel that such representation could be given to them with more propriety in the Council of State, mainly a revisory body, than in the Federal Assembly; and that in arranging for their representation the extent of their representation should not go beyond providing for voting strength not greater in proportion to British Indian votes in the House than their relative population strength to British India.

57. As regards the powers of legislation of the Central Legislature, some of our colleagues felt that the limits of the field of the power of the Central Legislature in the presence of provincial autonomy would need more strict definition in Statute than heretofore, and that it should be made clear that the Centre had no concurrent or residuary power except in cases coming within the four walls of the Statute. It was suggested that in paragraph 154 under the head *d* (ii) the power to legislate in the direction of repeal or emendation of a provincial law should be confined to cases affecting other provinces or central subjects only. In particular it was desired that safeguards should be provided against the alteration of personal or customary law. The principle enunciated at the end of paragraph 155 was generally approved. While in full sympathy with the desire to protect religious personal and customary rights and prevent intrusions into provincial domains, we feel that the powers with which the Governor General is armed, will operate sufficiently effectively to prevent any of the untoward effects of Central legislation which are feared. We admit that the burden of responsibility placed upon the Governor General in this respect and in the matters referred to in paragraphs 156 and 157 will be exceedingly onerous, but we have no doubt that the responsibility will be wisely and promptly exercised where required. It would also, we think, be reasonable to expect that the change in the composition of the membership of the Lower House may make the situation somewhat easier as regards the emergence of Bills from the Federal Assembly which are not in accord with the general sentiment of provincial legislatures.

58. We deal with the financial powers of the legislatures and the division of resources between the Centre and the provinces in another part of this Memorandum.

C.—The Governor General in Council.

59. We now turn to the difficult subject to the Central executive. Our colleagues have discussed the various alternatives ranging from handing over forthwith all subjects except defence, foreign affairs and political relations to responsible Ministers chosen from the Central Legislature with a provision to transfer these three excluded subjects to responsible Ministers after a term of years to variants such as giving discretion to the Governor General to include some officials also in his Cabinet, the remainder being

selected from the Federal Assembly. Generally speaking, some measure of responsibility to the Central Legislature in the Cabinet at the outset combined with some element of dyarchy or dualism or exclusion as regards certain subjects is advocated.

60. We have given the matter most careful thought; and while we hold that the eventual development at the Centre must be in fulfilment of the letter and spirit of the declaration of August, 1917, we are impressed with the insuperable difficulties of adopting a scheme of full responsibility in this transitional stage, during which the constituent provinces of British India are being established in their new and wider fields of autonomy in provincial affairs. The other difficulties of the transitional period have been sufficiently clearly stated by us in paragraph 6 of the introductory section of this Memorandum. To us the clear need during this period is of a stable executive Government. Admitting this need—and we consider it a real need—we see no real half-way house in between a scheme as suggested by the Commission where there will be a Unitary Cabinet, swayed and inspired by the Central Legislature and with “responsive” elements, but responsible to the Secretary of State and Parliament, and a Unitary Cabinet fully responsible to an Indian Central Legislature, which is the eventual goal but which we consider not to be practicable in this transitional stage; and while we hold that any tardiness on the part of the States should not prevent the completion of the best scheme of Federation and responsible institutions for British India at the Centre, the reality of the effect of federation and the impact and influence of the provincial units on the Centre has admittedly still to develop and make itself felt before the step to completion can be taken. Indeed, the completion can only fittingly take place, when it is established that the full responsibility in provincial affairs in the constituent units has justified its institution.

61. While we admit that there is the force of Indian sentiment in favour of the introduction of some responsibility at the Centre, that such a step might ease political tension and that there is advantage in placing the critics of the Central Government in the position of shouldering some of the odium of the difficulties of administration themselves; yet at the moment it seems to us that sufficiently large risks are being taken by the wholesale transfer of responsibility in the provinces, and simultaneous risk should not be taken elsewhere. For example, to take one instance out of several that occur to us, when Finance is being handed over to responsible Ministers in the provinces, if simultaneously the finance policy of the country, which depends largely on borrowings in and out of India, is freed from Parliamentary supervision, there may be a shock to public confidence. Later, if it were established that the transfer of Finance in the provinces had involved no catastrophic results and if, meanwhile, satisfactory Reserve Bank arrangements had been made, the change as regards Finance in the Central Government could be carried out.

62. We, therefore, adhere to the plan of the Commission for this transitional stage. The next step after this and prior to

complete devolution may well be a very full measure of responsibility reserving only the army, the States and external affairs under the control of the Governor General.

63. In order to make this transitional scheme work smoothly, we consider that, although the Central executive will clearly remain responsible only to the Secretary of State and Parliament, a responsive spirit should animate the position and Central Legislature should feel that the angle of view of the Federal Assembly is given due weight in the treatment of such subjects as Commerce and Finance. The situation would be assisted by the use of the discretion, suggested in paragraph 173, vested in the Governor General of including elected members of the Central Legislature in his Cabinet and by gradually increasing, so far as may be possible, the system of convention or a practice by Parliament of refraining from intervention in purely Indian affairs, which is discussed in paragraphs 351 and 352.

64. Some of our colleagues have suggested that if the executive is to be responsible to Parliament and not to the Central Legislature, its members should continue to be appointed as at present, that is by His Majesty on the advice of the Secretary of State; but we consider it to be of the essence of the Commission's proposals with a view to increasing responsive tone in the executive at the proper moment, that the Governor General, who will have his hand on the pulse of the Indian situation, should be unfettered in exercising the discretion and initiative in making appointments of the nature suggested in paragraph 173.

65. We are in agreement with the suggestions made that there should be included in the Governor General's Council a member with a light portfolio who would be charged with the primary function of leader of the House. Among other matters which might come under his special purview are the steps taken to secure a better understanding among the public of the policy and administrative programme of the Government on the lines discussed in Chapter 5 of Part IV of the Report. Incidentally, we may observe that we find ourselves in complete agreement with the suggestion on page 166 with which the Chapter closes.

66. Very considerable use has been made in this Province of Standing Committees of the legislature. While in the past at the Centre the Public Accounts Committee with its statutory powers and the Standing Finance Committee have played a conspicuous part, we believe that, generally speaking, the Standing Committee system has not been greatly used. We believe that in the new Constitution its use should be extended and that it would help both to keep the executive informed and responsive and also create a better understanding in the Federal Assembly of the exact purport and administrative difficulties inherent in various Government measures.

67. It has been urged that in the position at the Centre, as devised by the Commission, there are great possibilities of friction and deadlock between the executive and the legislature. The Federal Assembly will be larger and the nominated element pro-

portionally smaller than in the present Legislative Assembly. It is true that in actual composition the element of indirect election by the Federal units seems likely to return a different and possibly more temperate class of member. It is a fact also that the Commission envisage that the impact of the influence and views of the Federal Assembly on the Central executive will be considerable. Nevertheless, it appears to us to be a matter for consideration whether a smaller number in the Federal Assembly would not lessen the difficulties which may occur. The argument that in such case members would represent too large a constituency to maintain touch hardly now holds good, because it is proposed that they should be indirectly elected by provincial legislatures, which are themselves elected by reasonably small constituencies.

D.—Relations between the Centre and the Provinces.

68. We are in agreement that so far as the limited special overriding powers of the Governor are concerned (paragraph 49) and his special powers in a state of emergency (paragraph 65), he should be subject to the superintendence, direction and control of the Governor General and through him of the Secretary of State. We have already assumed that while the Governor General in Council will address the local Governments in regard to the subjects defined in paragraph 182, which have been specially made their concern in relation to provinces, it will not be proper for the Governor General in Council to move the Governor to act under the fourth item of the special statutory power, with which it is proposed he should be vested (See item 4 of paragraph 50). In such cases it will be for the Governor General to decide whether he should move a Governor to exercise his special power.

69. As regards the field defined in paragraph 182, the seventh and eighth categories might well be considered to be included in the first. One of our colleagues considers that the fourth item (raising of loans) is stated in too general terms. We will return to this point in dealing with Finance.

70. We welcome the flexibility which the suggestions in paragraphs 184 to 186 introduce, and believe them to be in the general interest and to mutual advantage. One of our colleagues feels some doubt whether a system of grants-in-aid from the Centre to the provinces may not prove demoralising to the latter, and whether in the end this may not involve some dictation by the Central Government as regards the recruitment of Agricultural, Educational and Public Health services. So far as we can judge, the giving or taking of grants is to be a purely voluntary matter on both sides, and will rest entirely on the basis of agreement. In these circumstances we see no reason to apprehend any undesirable encroachment in provincial spheres.

71. With reference to paragraph 190, there has been some doubt in the past as to where residuary powers reside, *i.e.*, what authority has the discretion to deal with matters not specifically defined as falling within the Central or Provincial fields. Unless these powers are retained by Parliament, we consider that doubts

should be set at rest by declaring that they vest in the provincial Governments.

VI.—THE QUESTION OF DEFENCE AND THE ARMY.

(REPORT, PART V.)

72. It is with some diffidence that we offer observations on this subject. Our excuse is that we believe that the proximity of this Province to the vulnerable North-West Frontier makes the people of the Punjab perhaps more conscious of the need of an efficient army and of the imperial implications of the defence problem than those of some other provinces, and that the connection of the military classes of the Punjab with the Indian Army, in which they form a large and important element, makes the subject one of special interest to various classes in this Province.

73. We have already stated our general view as to the fundamental requirements of defence and internal security in paragraph 7 of Part I of this Memorandum.

74. We have not found the scheme propounded in Part V of Volume II of the Report easy to understand, as apart from the arguments in support of the principle, it is only sketched in general terms; but its main features seem to be:—

- (i) that the forces composing the Army in India should no longer be under the control of the Government of India, but would be under imperial authority, *i.e.*, that of the Viceroy acting with the Commander-in-Chief (paragraph 209, Part V);
- (ii) that the Central Legislature (as now) would not vote supplies for the army, though a sum would be charged on Indian revenues under the certificate of the Governor General. This would apparently be a fixed sum subject to revision at intervals, and some hint is given of the possibility of some contribution from imperial funds ("an equitable adjustment of the burden of finance"); (paragraphs 209 and 210).
- (iii) The Commander-in-Chief would no longer be a member of the Cabinet or in the legislature; (paragraph 170).
- (iv) Questions of defence, so far as they come before the legislature, would be dealt with by a Civilian (the Army Secretary or the Leader of the Federal Assembly); (paragraph 170).
- (v) The touch of the members of the Federal Legislature with defence and army questions would be maintained by a Committee on Army Affairs on which the Central Legislature and the Indian States would be represented; (paragraph 210);
- (vi) There would be steady and sympathetic progress, subject only to the overriding requirements of military efficiency, with the Indianization of the army; (paragraph 211);

(vii) There is a possibility (not fully explored) of the Indian Government, in co-operation with the Central Legislature, embarking on the organization, training and equipment of certain military forces independently paid for and controlled, though the probability of financial resources for such a parallel project appears remote, (paragraph 211). As regards the last item the probability seems so remote that for practical purposes it appears to us that this suggestion may be disregarded.

75. An inseparable feature of Indian political aspiration is a conviction that its ideals of a fully self-governing India can only be realized in the end if it sees clearly in front of it the eventual emergence of a Dominion Army in its own command and control. At the same time it has been clearly recognized by many schools of Indian political thought that during a transitional period there are some things which it may be found desirable at the outset to remove for the time from the sphere of a responsible Central Government, or in regard to which the Governor General may need to be invested with special powers, as for instance, Foreign affairs, Relations with Indian States and Defence. The difficulties which the Commission feel in placing the army under a unitary Cabinet, with joint responsibility, have been fully explained by them in the arguments which end with paragraph 208 of Part V. This Cabinet, as we have already seen, may include at an early date "responsive" members of the Federal Legislature (paragraph 173), and its eventual development must no doubt proceed towards the ultimate goal of representation and responsibility described in the declaration of the 20th of August, 1917, though this part of the picture, as explained in paragraph 3 of this Memorandum, has not yet been painted-in. The Commission make it clear that the inclusion at the outset of an official charged with responsibility for the army in the unitary Cabinet would not overcome their difficulty. There is thus, on the one hand, some common ground of agreement; and while there is likewise some conflict, in our opinion that divergence between two angles of view is not insuperable.

76. The common ground is the admission that in the transition period exclusion of the army in India from control by Central Government and Legislature must occur in some form or other. The difference is as to what intention is in the meanwhile to animate the treatment of the subject during the transition period. Indian political opinion desires to be convinced that decisive steps will be taken to speed on Indianization and the creation of a Dominion Army. It also desires assurance that the Indian Central Legislature and Ministry in the meantime and during the process will not be divorced from touch with the facts regarding the organization, cost and management of the army in India, and that its connection with army affairs will be sufficiently intimate to secure that in the ultimate stage, responsible Indians will be possessed of the requisite knowledge and familiarity with defence policy to enable their Central Government in the fulness of time to take over the responsibility and control of a Dominion army and defence.

77. There is no lack of appreciation that an effective Indianized Dominion Force will take time to create, or in the Punjab at any rate—that an inefficient defence force, however, seductive and soothing its presentation on paper may seem, is money wasted on an ineffective insurance in face of a real frontier menace. It scarcely requires a slight effort of imagination to understand that with the most senior Indian King's Commission officers in regular Units now at a standing of only 8 or 9 years' service and only now beginning to be eligible to qualify for admission to the Staff College, and with Indianization more backward still in the technical branches (though admission to Woolwich and Cranwell is now open), the evolution of a number of largely Indianized units officered and commanded mainly by Indians, organized into Brigades and Divisions with a considerable Indian element on the staff, is a matter which will take time. It is also understood that no shorter time can conceivably suffice to educate and qualify Indians to attain these capacities than is needed for the attainment of a similar degree of capacity and experience in these ranks by their fellow British officers. Yet there is a feeling that sufficient efforts are not being made to increase the intake and proceed with the project on a larger scale. The eight-Unit scheme seems to be a jejune response to India's impatience to get on with equipping herself for the responsibility of her own defence. No doubt the answer is that, keeping in mind the supreme need of efficiency, satisfactory officer candidates are not forthcoming under the present system in sufficient numbers. It is, however, believed that generally speaking it has been found possible to accept as good material a satisfactory proportion of the youths trained at the Dehra Dun Military College. Opinion in this Province, which has good reason to believe in its stock of military material, would welcome the establishment of other Colleges elsewhere on more economical lines with this purpose in view; and it is believed that, given their establishment on a basis where the expense to parents would be on a more modest scale than is the case at present, enough youths of the right type would be forthcoming to fill all available vacancies at Sandhurst and later possibly to feed an Indian Sandhurst. While we cannot pretend to have the knowledge to dictate on so technical a subject, we wish to lay emphasis on the need for exploring the line of progress which we have suggested. It is in the families of the small squires, which have honourable connection with the Indian Army, often extending over three generations, that real material can be found. This class has not the means to pay for expensive education for their sons; but if institutions can be provided, which specialise in preparation for Sandhurst, etc., and supply a sound education with ample attention to character formation and discipline on inexpensive lines, this class will gladly avail itself of the opportunity to fit its sons for a career in the Army. Public opinion here will not rest content with the vague and general terms of the Commission's recommendations that "we consider that this obligation (Indianization) should continue to be honoured in the letter and the spirit, if the army in India were to pass, as we suggest, out of the control of the Government of India".

78. As regards the other point, transitional requirements would be met by making the Committee on Army affairs a reality. Indian members of the Governor General's Council should be included in it as well as members of the Central Legislature; and the points, on which its advice will be sought, should range over a field sufficiently wide to keep it in close touch with the realities of problems of defence and army organization. Nor should there be undue restriction as regards the scope of discussion of defence problems, within which the Central Legislature, within reasonable limits, should have discretion to debate on such measures, with due provision through powers vested in the Governor General to preserve for Parliament complete control in ordering the conduct of defence measures. On the occasion of such debates it might be desirable to nominate military experts to expound technical considerations.

79. The only comments we have to offer on paragraph 213 of Part V is that the Commission appear to have forgotten the provisions of Chapter IX of the Code of Criminal Procedure. These provisions give a discretion to a magistrate where a disturbance of the public peace has actually broken out, to call on His Majesty's army to disperse an unlawful assembly by force, and a statutory obligation is laid on members of His Majesty's forces to obey the requisition, though the manner in which they elect to do so is left to their discretion. In this case the magistrate is acting not at the dictation of the *local* Government but in a magisterial capacity under responsibility to a High Court of Justice appointed by the Crown. We consider it important that this discretion should not be altered. In practice, unless the emergency is grave and sudden and the disturbance of peace serious, the District Magistrate ordinarily refers by message, telegram or telephone to the Commissioner or local Government before making his requisition to the military for aid to civil power; but there is no statutory obligation on him to do so; and if the insistence of the seriousness of the actual disorder and disturbance of the public peace is great, it is most undesirable that his discretion should be hampered. His immediate duty, whatever the cause of the disturbance, is to restore order and peace at the earliest possible moment, and if life is to be saved and spread of disorder prevented, this can often only be done by very prompt action. The ordering of a show of military force before actual disturbance takes place, or after a disturbance, stands on a different footing, and can now only be effected by the order of the local Government; and in this case we are in agreement with the views as to the proper procedure which are expressed in paragraph 213.

80. Some of our colleagues have suggested, among two possible alternatives to the scheme of the Commission, the subjection of the Indian portion of Army in India to the Central Government and Assembly's control, or the establishment of provincial militias at the call of Ministers in charge of law and order in the provinces. The first of these alternatives appear to us impracticable. Army organization rests on a basis of common staff, inspecting agencies, supplies of equipment and mobilization stores, and any attempt to separate the army into two parts for administrative purposes would

be likely to prove both expensive and inefficient. As regards the second alternative, whether in the form of an embodied force or of a reserve, the proposal amounts to little more than an increase in the Police forces of the province, which it will be at the discretion of the Minister in charge of law and order in a province, given good grounds of necessity and sufficient financial resources, to compass as part of his policy. The constitution of such a force might lessen the number of occasions on which it was found necessary to call on His Majesty's Forces in India to act in aid of civil power in internal security, but it would not in any way help to solve the main political and constitutional problem of the treatment of defence and the army in India with which we have been dealing.

VII.—FINANCE.

(REPORT, PART VIII.)

81. We do not propose to attempt to deal with the details of Sir W. T. Layton's scheme or to sit in judgment on them at this stage. That will be a task for the Finance departments of the Government of India and of local Governments to complete in collaboration and for which more time is required than is at present at our disposal. At the moment we lack the necessary data for thorough scrutiny. It may well be that expert examination may subsequently establish that the expectations of revenues from Central sources of taxation and income and of economies in the growth of Central expenditure have been framed on an unduly optimistic basis and that the yields expected from taxes, from which the provinces will benefit, have been rated too high. Discretion may dictate that greater caution must be exercised touching the time at which the salt tax can be handed over to the Provincial Fund and that Sir W. Layton may be found to have been too sanguine in this regard. Naturally the reserves in the field of taxation which the Central Government can tap in the event of war or Frontier expeditions, will also need careful exploration; and this examination may affect some matters, as for instance the percentage of surcharge which provinces can be permitted to levy on income-tax. We also clearly realize that under Sir W. Layton's scheme the proportionate increase in revenues in the Punjab will be markedly less than that accruing in other provinces, *e.g.*, Bihar and Orissa; and that on this score the results are not so satisfactory to us as they might be.

82. Nevertheless, we heartily approve of the general principles and main features of the scheme. It recognizes the need of the province to expand especially in nation-building activities and the obstacles, which the restricted power of taxation under the present system and the limited scope of existing internal resources places in the way of its desire. We welcome the opportunity which the scheme provides for tapping other outside sources. One of the difficulties of the present position has been that, whenever the province felt the need of additional resources, these could only be raised to the extent desired by placing burdens on the rural and

landed interests. From this aspect we welcome the suggestion that the province should receive one-half of the income-tax on personal incomes and have the discretion, in addition, to levy a surcharge on personal incomes. We also strongly feel that in a province where even the smallest land holdings pay land revenue, we should have the discretion to tax incomes, not derived from land, below the present exemption limit of Rs. 2,000. We are also of opinion that there is great force in the suggestion in paragraph 268 regarding the taxation of incomes from foreign investments.

83. As regards the new provincial taxes which are suggested, we feel that in this Province without a complete change of system there is no likelihood of the project for the taxation of agricultural incomes being adopted. In the presence of many small holdings the yield is likely to be poor and hardly worth the friction and trouble which its assessment and collection would involve. If public opinion at some future time fastens on a readjustment of the land revenue system, it is more likely to take the form of lightening or removing the burden on very small holdings and compensating revenues by placing the burden thus removed on to the shoulders of the larger landholders. As regards death duties also, it seems unlikely that the preponderating land-owning interest in this Province will be prepared to subject itself to this form of impost, though it is possible that, given adequate taxation of urban and professional incomes, an enhanced charge by way of mutation fee on transfers of landed property might be accepted. We are sceptical about the practicability of terminal taxes. If they are levied on imported goods, in many cases the goods will have already paid to the Central Government customs duties or excises, and will also have paid octroi or terminal taxes imposed by local bodies. It seems hardly possible to place an additional charge on them to benefit a local Government. Such a charge would also, we observe, probably react unfavourably on railway earnings, and would be very expensive to collect. We are in favour of removing the limit for local cesses on lands in the case of district boards. We approve in principle of the proposal to tax tobacco. We feel some doubt as to the possibility of any considerable return from a tax on matches; for, while in the case of tobacco, the location of the factory is to some extent fixed by convenience of proximity to a source of supply, and will in practice be confined to tobacco-growing centres, the same consideration does not apply to the establishment of match factories; and the latter may be transferred into Indian States, if excises are imposed, with resulting complications. We also feel some doubt whether caution is not needed to prevent taking measures which may operate to stifle a nascent Indian industry though probably a moderate excise would be paid by the middlemen and not react on consumption.

84. Some doubts have been expressed as to whether it is quite clear that provinces will have full discretion to use all revenues accruing to them, including those from Central sources, on such objects as they desire. We feel that this freedom of discretion is sufficiently clearly intended and expressed.

85. As regards distribution of taxes which pass into the Provincial fund, we are of opinion that the only just and automatic test is that of population. If any surplusage outside this principle is to be allowed, it should rest solely on grounds of Central interests and might take the form of a subvention to provinces for the education of the children of the military classes in proportion to numbers from each province serving in the Indian Army.

86. As regards the federal implications of the constitution of the Provincial Fund, the machinery by which it will be fed and the safeguards against the initiation of changes in the taxes coming within the scope of the Fund or alteration in allocations to the Fund of particular taxes, we find ourselves in general agreement with what is proposed in paragraphs 305—307 of Chapter 7 of Part VIII of Volume II. Until the final composition of the Federal Legislative Assembly is determined, we find it difficult to decide whether in effect the provision requiring the expression of a desire by the Finance Members of more than three provinces as a condition precedent to the initiation of a change in the taxes within the scope of the Fund is sufficient. We consider it essential that there should be adequate safeguards against the more populous provinces imposing their will on the majority of the provinces, which appears to us to be a necessary condition of a Federal system. It will also be necessary to provide that changes do not operate to inflict too sudden and severe a change in provincial budgets, and in this connection it would appear desirable to lay down that changes by way of reduction should only take place, at earliest, a full year after the date on which they pass the Federal Assembly.

87. We note that paragraph 306 of the Report has to be read with paragraph 163. When a national excise is just imposed a simple majority vote of the Federal Assembly is sufficient. When a source of revenue already allotted is to be taken away from the provinces, this can only be done by a simple majority vote of the Federal Assembly combined with a simple majority vote of the representatives of two-thirds of the provinces. Where it is a question of altering the distribution among provinces, a majority of two-thirds, of the members of the Federal Assembly and also a simple majority vote of the representatives of two-thirds of the provinces will be necessary.

88. Paragraph 308 leaves us in some doubt as to whether power will be retained by the Secretary of State to require the submission to him by the Central or local Governments of schemes involving large capital expenditure. In that the latter ordinarily entail borrowing in London on India's credit, it is probably desirable that he should be kept in touch with such projects, so that the India Office can give the City general indications as regards their nature. As long as the Secretary of State raises loans in London for the Indian Government, some such general connection with aspects of financial affairs relating to loan programmes appears essential. Otherwise we understand that his control over expenditure will in future be limited to Army and other non-votable expenditure.

89. For the present in this province it will probably be found convenient to use the agency of the Central Government for keeping provincial accounts, though there is little doubt that the development of a provincialised Accounts Service will take place in due course. There seems no reason why provinces should pay for maintenance of accounts until the salt duty has been handed over to them.

90. As regards provincial balances, pending the formation of a Central or Federal Bank, no other course seems practicable than that the Central Government should continue to perform the function of keeping these balances under the conditions explained in paragraph 310.

91. We are strongly in favour of audit being the concern of an independent Auditor General.

92. As regards borrowing, there is a divergence of opinion, one Member of the Cabinet holding that there should be no restriction on the discretion of a province to raise a loan within the province. We feel that such freedom will be both unsound in theory and unprofitable in practice. So long as the provinces enjoy the advantage of borrowing money on the credit of India as a whole, there must be control and co-ordination of their loan operations by the centre. Sufficient touch with their needs can be maintained by the association with the Finance Member of the Government of India of a Provincial Loan Council as suggested in paragraph 311; clashes and competition between central and provincial activities in the market must be avoided both as regards the time of launching loans and conditions; and lastly in the interests of the general financial credit of both the Central Government and the provinces there must be some check on unwise and excessive borrowing by a spendthrift province. Indeed, this is the only method of ensuring a requisite degree of financial stability in the provinces, which will remain. So far as this Province is concerned, it has every thing to gain from participation in such co-ordination; for even in the case of a loan within the province, experience has shown that Bombay and Calcutta find the bulk of the money; and the province would have to offer extravagant and uneconomic terms, if it ever desired to compete with the Central Government or the Presidencies in its appeals to the money market.

VIII.—THE SERVICES.

(REPORT. PART IX.)

93. As regards the recruitment of the security services on an All-India basis by the Secretary of State, we are strongly of opinion that it should be continued during the transitional period on the existing basis as suggested in paragraph 329. One of our colleagues has advanced the view that even during this period and in the case of these services, there should be wholly provincial services recruited by a Public Services Commission and entirely

controlled by the local Government. Another suggested adopting the scheme advocated in paragraph 329 for 10 years and then reconsidering the question of proportions, method of recruitment and control. We prefer not to modify the system put forward in paragraph 329 in this respect. During the transition period we lay great stress on the wisdom of keeping the All-India system, recruited by the Secretary of State with its wider field of choice and the status, tradition and security which attaches to a regular service with fixed prospects and rules, under the Secretary of State's control. It may in some degree represent a constitutional anomaly; but we consider it essential in the transitional stage. We believe in its utility for securing an Indian element of superior capacity and, so far as the European element is concerned, we do not think that recruits of the desired type would be attracted if recruitment by or on behalf of an authority in India was carried out by a Public Services Commission in India or the High Commissioner in London. We do not wish to imply that this should be the method followed as a permanency; but from the point of view of recruitment, it is important that there should not be any short period fluctuations or changes; so the period fixed before reconsideration takes place should be sufficiently long. We suggest that the date for reconsideration might be fixed as 1949, the date by which the Lee Commission scheme for the completion of the Indianization proportions of the Indian Police Service will in theory finally materialise. We agree that as regards proportions of Indianization we should adhere to the rate fixed by the Lee Commission.

94. As regards the Forest Service, we agree that future All-India recruitment may be discontinued. As regards the Irrigation Branch, however, we are strongly of opinion, in spite of certain considerations to the contrary placed before us by our colleagues, that we should retain a substantial element of Europeans recruited on the basis and safeguards of an All-India Service in its gazetted ranks. The net income from irrigation forms more than a third of the total revenue of the province, and the place it occupies indirectly in the general economic prosperity of the province and as an asset in the well-being and contentment of the people of the province can be rated on general considerations at a much higher figure than its arithmetical value in the financial resources of the province. We have too many eggs in this basket to risk losing an element which, past experience shows, conduces to the more efficient preservation and profitable extension of our great irrigation system. In the Punjab the Irrigation officer is more than a technical officer. His efficiency and initiative is a factor for internal stability practically on a plane with that of the officer in the security services.

95. In view of our recommendations in regard to the security services and the Irrigation Service, which involve the retention of some European element with definite service rights, we find ourselves in agreement with the provisions as regards medical treatment which are explained in paragraph 333.

96. As regards safeguards for existing All-India officers, we approve of the proposals made in paragraph 332. We are strongly of opinion that the right of retirement should remain open without limit of time to all officers belonging to All-India Services who may be serving when the new Constitution is introduced.

97. As regards future recruits, it is proposed that they should enjoy the same rights, privileges and safeguards in which the existing members of All-India Services are secured by the recommendations in paragraph 332 and have the same safeguards for their continuance. The Commission make one exception about the right of premature retirement. We discussed for some time the obvious fact that the new recruits would join with sufficient knowledge of future conditions and that unless some change was introduced after their recruitment, it would be illogical to let them have this right. At one time we inclined to the view that new recruits should be allowed to exercise the right up to 5 years from appointment. The question of a reciprocal right of forcing compulsory retirement within this period was also discussed. Further thought convinces us that, as far as Europeans are concerned, the acid test is the practical one, *viz.*, whether, if the new recruits are not offered a more extended right of retiring on proportionate pension, recruits will be forthcoming and recruits of the right type. The answer seems to us to be in the negative, and for this reason we think the unlimited right should be maintained. We are aware that the benefits of the present rule may in some cases be abused, and that the position is sometimes felt to be unfair, *i.e.*, it should involve a power by Government to retire undesirable officers. We feel, however, that a discretion to impose compulsory retirement will injuriously affect the idea of service security. We have thought of the possible advantages, in these circumstances, of securing new recruits on provident fund terms. The latter, however, while suitable for a technical officer, such as an Engineer or a Doctor, are of little practical value in the case of the Indian Civil Service or the Indian Police Service, whose knowledge and experience have no professional value in the employment market on retirement.

98. We must now turn to the attitude which the All-India Services themselves are likely to adopt to the proposed changes and safeguards. We are aware that some service associations in N. W. India placed representations before the Simon Commission to the effect that if all provincial subjects were recommended for transfer, the logical development was to wind up the All-India Services in the provinces and give them proportionate pensions and compensation for loss of prospects and career, as in the case of the Egyptian Services.

99. There has not been time for consultation on this occasion; but His Excellency the Governor requested the All-India Service Secretaries and Heads of Departments at Simla who included in their ranks officers of the Indian Civil Service, Indian Police Service and Indian Service of Engineers (both Irrigation and Buildings and Roads branches), to meet and give him their views on the

portion of Part IX of the Report containing recommendations regarding the future position of members of All-India Services.

100. The views, at which they arrived after discussion, are attached to this section as appendix A. It will be seen that they feel apprehension that the conclusions reached by the Commission in the closing portion of paragraph 332 will not really give them the security they require as regards pensions and funds. Though this may seem unduly apprehensive in the transitional stage, while pay and pensions are not votable, and authority is retained from the Secretary of State downwards through the Governor General, the Governor General in Council, and the Governor, ending with the latter's special powers to secure appropriation (item 3 in para. 50, page 36) to ensure their rights to payment of dues, their conclusions are, we believe, representative of the present feelings in our All-India Services. In short, at the back of their minds there is an idea that, while the Secretary of State can hardly visualise that it will be ever out of his power to carry out obligations, situations and circumstances may arise when he will not be able to place himself in funds to do so. They argue that to pay the necessary capital sum, subject to readjustment, for each official's pension when he retires, would not be unduly burdensome, and would remove the feeling of insecurity. As regards family pensions and funds, the case for their transfer to a fund with the Secretary of State in the case of Europeans seems to them even more insistent and logical, for in these cases the money is even more clearly than pensions (even if pensions are classed as deferred pay) their own money. The views as regards rates of provident fund appear to be reasonable. We commend generally the opinions expressed to the notice of the Government of India, because the feeling of anxiety in the matter is undoubtedly genuine and acute and may have serious repercussions, as for instance starting the new regime with grave depletion in the ranks of the experienced section of the All-India Services. We observe that the matter referred to in III (2), the claim for compensation for loss of career in addition to premature pension was specifically considered by the Lee Commission and rejected by them as unjustifiable.

101. The recommendations in paragraph 335 were approved, though it was felt that the amount of pension in each case should be governed by length of tenure of the appointment.

102. It was agreed that the appointment of a provincial Public Services Commission was desirable. It was advocated that the members should be appointed by the Governor for 5 years, and should be removable only by order of the Governor General so as to ensure a feeling of independence from control of local authority.

103. Some doubts have been expressed by some communities regarding future recruitment to the provincial and subordinate services, as to how far there is assurance, that the principle observed in the past that, keeping in view the claim of efficiency, no one class should be permitted to monopolise the services to the detriment of the just and reasonable claims of other sections of the

community, will be followed in future. The answer, in our view, is that difficulties would attend any interference going beyond enquiry and advice by the Governor in future as regards individual appointments by Ministries; but if their cumulative effect is of a nature to come within the purview of the second of special powers [item (2), paragraph 50, page 36] he would be bound to act and should act. Fixed percentages or recital of rights in Statute appear to us to introduce an element of undue regimentation; and the general remedy of the Governor's special powers, if a little vague in definition and in character ameliorative for the future rather than revisory as far as the past is concerned, must suffice to correct tendencies.

IX.—THE HIGH COURTS.

(REPORT, PART X.)

104. In dealing with the problem of the transfer of law and order in the Memorandum prepared for the Simon Commission by the Punjab Government the official members of the Government made the following observations:—

“The administration of justice presents problem peculiar to itself. The actual dealing of justice, whether the conviction and punishment of offenders or decision of civil suits, will remain the task of a body independent of the executive government. It is only in matters subsidiary to the dealings of justice that the executive government is concerned, such as the appointment of judicial officers, their transfer and, in the last resort, their removal or punishment, and in the provision of funds necessary for carrying out the administration of justice. Here the chief problem is that of keeping justice out of the field of politics, and it will be seen from the comments of the High Court in Chapter VIII of Part I, that it is chiefly in the sphere of patronage and the communal composition of the judiciary that the impact of politics has mainly been felt. Here again it is the communal question which presents the chief difficulty; it will for many years present a problem which it will be impossible to ignore, especially in a population with whom the question of the personnel of the Judicial Service is a matter of acute interest.” (Paragraph 24 of Part II, Volume II, P. G. Memorandum.)

105. The question of the High Court naturally divides itself up into three Parts: (i) the appointment of the Judges, (ii) the administrative control over the High Court which includes financial provision and (iii) the administration of the subordinate judiciary.

106. As regards the first part, the present practice is that the appointment of permanent Judges is made by the Crown, the

appointment of additional Judges is made by the Governor General in Council, and the appointment to officiate as Judge in a temporary vacancy is made by the Governor in Council. The number of permanent Judges and additional Judges is fixed under the orders of the Secretary of State or Governor General in Council respectively as the case may be. As regards the first two classes of Judges, in practice the convention is that the Governor after consulting the Chief Justice forwards the views of the latter with his comments to the Governor General. The latter then enters into communication with the Secretary of State as regards permanent appointments or disposes of the matter with the Home Department of the Government of India in the case of additional appointments. So far as we understand the Commission propose no change in this procedure except that the appointments to officiate in a temporary vacancy should be made by the Governor General after consulting the provincial Governor. We are in agreement with the recommendations of the Commission, as we consider it important with a view to securing, so far as may be possible, independence from local political influence that members of the Bench should owe their appointment to an authority outside the province. We are conscious that our view differs from that set forth by the Punjab Reforms Committee which advocated that appointments should be made by the Crown on the recommendation of the local Government, and that a Judge should be removable on the joint recommendation of the Governor and local Legislature concerned.

107. When we turn to the second part, the administrative control over the High Court, the present practice is that the High Court, apart from the actual dealing of justice in which domain they are entirely independent, have certain functions vested in them (*i.e.*, in the person of the Chief Justice) by Letters Patent, as for instance in connection with their establishments, but are in practice actually under the administrative and financial control of the Governor in Council; that is they may put forward scales of staff, changes and additions in buildings, questions connected with records and printing in the High Court, for which the Letters Patent give them a degree of discretion, but the Governor in Council may find it impossible to provide for these items in the budget. The actual salaries and pensions of the Judges of the High Court (and of their Registrar, when he is a member of the I. C. S.) are non-votable, but are a charge on provincial revenues, the whole of the rest of the High Court expenditure and the expenditure on the civil courts (except non-votable salaries) is votable provincial expenditure. The local Government is likewise in control of those subsidiary matters to the dealing of justice to which we have referred in the first paragraph of this section.

108. The Commission recommend that the administrative and financial control of the High Court and its establishments, buildings, contingencies, etc., should be assumed by the Governor General in Council and that these matters should be a charge on Central Revenues which would be reimbursed to some extent by making High Court fees a source of Central Revenue. It is pro-

posed that the functions of the provincial executive in connection with the administration of the subordinate judiciary, and their relation with the High Court in this connection should remain unchanged.

109. The Hon'ble Judges of the Lahore High Court have expressed their general agreement with the proposals of the Commission, and a copy of their letter is attached as appendix B to this Memorandum. We have given the matter careful thought, but are unable to find ourselves in agreement with the High Court and the Commission on this point. Though we would naturally welcome the relief to provincial finances which the suggestion involves, we feel that the loss in other respects outweighs the possible advantage. We see risk of friction and growing aloofness which would not be in the best interests of the Province. In the Court itself we fear that amenities and scales of establishments would tend to be set up which would be out of proportion to those fixed for persons, departments and establishments of a somewhat similar character at the headquarters of provincial Government and have unsettling repercussions. While the necessary and proper judicial independence seems to us to be secured by the power of appointment and removal of Judges being vested in an authority outside the province, we apprehend that the additional (and in our view unnecessary) sense of independence, which must result from the Commission's suggestions on the administrative and financial side, might destroy the intimate and close relations between the Court and the local Government in connection with the personnel discipline and working of the subordinate judiciary which in our view it is so essential to maintain. Friction in regard to these matters would have reactions prejudicial not only to the working of the subordinate judiciary but also to the confidence of the public in the administration of justice. The High Court have already complained of the criticisms on the administrative side of their work which are occasionally made in the legislature. Even under the system proposed in the report of the Commission opportunities for such criticisms would remain, *e.g.*, in connection with demands for grants connected with the subordinate judiciary. In our view these criticisms would tend to increase in proportion as any portion of this administration is removed from the purview of the responsible provincial executive; and their disappearance can only be secured by even more close co-operation in these matters between the highest judicial and executive authorities in the province.

X.—RELATIONS BETWEEN THE HOME AND THE INDIAN GOVERNMENTS.

(REPORT, PART XI.)

108. We consider it reasonable that the control of Parliament within the provincial field should be restricted to matters in which special powers are reserved for the Governor and be exercised through the Governor General.

APPENDIX A.

(See paragraph 100.)

Proceedings of a meeting of Secretaries to Government held in Chief Secretary's room on the 19th July, 1930.

I.—SECURITY OF PENSIONS.

Paragraph 332 of Simon Commission's Report.—"Pensions are really in the nature of deferred pay."

Recommended—

- (a) that statutory force be given to this declaration;
- (b) that financial security for the pensions of officers appointed by the Secretary of State be maintained in London, preferably by making them a charge on the Consolidated Fund. If this recommendation is not accepted, then recommended;
- (c) that the British Government guarantee the pensions of all officers appointed by the Secretary of State;
- (d) that the existing exchange rate (which is fixed by rule having the force of law) be maintained for calculating the sterling value of pensions;
- (e) that whatever form of security is conceded, it should be sufficient to enable insurance companies of repute to insure service pensions at a reasonable rate, *e.g.*, not exceeding $\frac{1}{2}$ per cent. of the pension.

II.—FUNDS.

Recommended—

- (a) that a rate 1/6 per rupee for payment of Provident Funds be secured by statutory rule;
- (b) that subscribers to Provident Funds be entitled to withdraw the whole amount at their credit for purposes of investment in insurance policies at any time and that they be entitled to receive the sterling value of the sum as it stood on the date of application. If any subscriber is not insurable at first class rates, that he be entitled to the concession mentioned above for purposes of other investment;
- (c) that sterling family pension funds be funded in London for the benefit of subscribers and their dependents.

III.—PROPORTIONATE PENSIONS.

Recommended—

- (1) that the system of proportionate pensions be continued to all officers at present entitled and be extended to all future recruits appointed by the Secretary of State;

- (2) that the contemplated changes in conditions of service, particularly at the expense of the I. C. S. and Indian Police Service Officer, constitute a grave hardship on officers recruited before 1920, who are still in the middle years of their service. The proportionate pension due to an officer of 15 or 16 years' service, who is without private means and has a wife and family to support, might well be inadequate to enable him to live without seeking further employment, which it is notoriously difficult for an officer without special qualifications to find. Consequently the remedy, which the proportionate pension concession is intended to provide, may well in practice be closed to such officers; and it is recommended therefore that they should receive, in addition to the right to retire on proportionate pension, compensation for loss of career or in the alternative for having to continue to serve under conditions altogether different from those which induced them to join the service.

IV. The meeting endorsed the recommendation of the Simon Commission regarding medical relief for European Officers and their families.

V. The meeting ventured to point out that the ability of Government to secure the pensions and funds of the services will be gravely imperilled if the Irrigation Department ceases to be recruited by the Secretary of State.

APPENDIX B.

(See paragraph 109.)

No. 5352-A/IV-A.-9, dated Lahore, the 19th July 1930.

From—E. A. R. EUSTACE, Esq., I.C.S., Registrar of the High Court of Judicature at Lahore,

To—Miles Irving, Esq., C.I.E., O.B.E., Additional Secretary to Government, Punjab, Simla.

With reference to your letter No. 2646-S.-Reforms, dated the 5th of July 1930, I am directed to say that the Hon'ble the Chief Justice and the Judges agree generally to the proposals contained in Part X of Volume II Report of the Indian Statutory Commission. They suppose, however, that just as judicial salaries are proposed to be made a charge upon Central Revenues so, should the proposals in Part X be adopted, judicial pensions would be made a similar charge.

ENCLOSURE B.

Memorandum containing the opinions of the Non-Official Members of the Government of the Punjab on the recommendations of the Indian Statutory Commission.

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PART I.—Joint Minute containing the opinions of the Hon'ble Captain Sikandar Hayat Khan, M.B.E., Revenue Member, and Malik Firoz Khan Noon, Minister for Local Self-Government.

In depriving the Muslims in Bengal and the Punjab of their legitimate share of representation in the Provincial Legislatures the Indian Statutory Commission has failed to do justice to the claims of Muslim India. Its conclusions in paragraph 85 of the Report are based on the ground that it will give them (Muslims), "a fixed and unalterable majority of the 'general constituency' seats in both provinces". The argument fails to carry conviction in face of the obvious fact that the Hindus, in spite of giving weightage to the minorities, will remain perpetually a substantial and unalterable majority in the other six provinces. Apart from its being obviously unfair to the Muslims of Bengal and the Punjab and its prejudicial effects on the rights and interests of Indian Muslims, the proposal appears to us to be in conflict with the main scheme for establishing a federal form of government propounded in the Report. We find it difficult to reconcile this particular item in their recommendations with the ostensible desire on the part of the Commissioners, of securing to the various components, equal opportunities for internal development on lines best suited to the conditions and requirements of each unit. The Commissioners seem to have overlooked or ignored the serious implications of their proposals (in paragraph 85) which can have no other effect except that of relegating the Muslims to a position of political impotency even in those provinces in which they happen to be numerically superior. When we find that the question of Sindh has been left unsettled; Baluchistan has been denied even the rudiments of a reformed administration; and the advance proposed for the N.-W. F. Province falls considerably short of the expectations of even the most conservative elements amongst the Muslims, it is difficult to escape the conclusion that Muslim interests have been allowed to suffer not merely for lack of proper appreciation of the claims and needs of the community, but perhaps for other reasons. This conviction is further strengthened by the singularly unconvincing nature of the argument employed by the Commissioners in support of their contention in paragraph 85 of the report.

It has been suggested by some critics that in sacrificing the Muslim rights and interests the Indian Statutory Commission has made a feeble attempt to placate the majority community with a view to reconciling them to the conclusions and recommendations embodied in this Report. Whatever may be the reasons the fact remains that if the recommendations of the Indian Statutory Commission with regard to the representation of Muslims in Bengal and the Punjab are accepted the minorities will be subjected to the rule of a formidable oligarchy not only in the Central Legislature and the provinces where they are in a minority, but even in those provinces in which they are legitimately entitled to superior representation. We would be failing in our duty to the Government and the country if we do not enter a strong caveat against the adoption of a course which will result in depriving the most important minority in the country of its due and rightful share in the management of the country's affairs, both in the Central and Provincial spheres. If in spite of the repeated assurances from the Viceroy, and responsible Ministers of His Majesty's Government, the interests of minorities are allowed to be subordinated for reasons of expediency or other considerations, there will be serious repercussions which may result in further aggravating the situation in the country by accentuating the differences between the British and Indian people.

It is a matter for satisfaction to us that our official colleagues also consider the proposals contained in paragraph 85 of the report as unfair to the majority community in the Punjab; and in the concluding sentence of paragraph 30 of the Memorandum they have expressed their views in the following words:—

“but we feel that we cannot go so far as the Commission in paragraph 85, for it seems to us illogical to deprive a population majority entirely of their position.”

Although the language used is guarded; it is sufficiently clear to indicate a desire on their part, of securing to the community, which is numerically superior, its rightful position as a majority in the Provincial Legislature; though they do not contemplate going to the extent of giving them representation warranted by their numbers. But we are surprised to find that in the eventual composition of the Legislature, recommended by them, they have overlooked this consideration and have failed to carry the principle enunciated, in paragraph 30, to its logical conclusion.

According to their proposals the Muslims get two more seats than the Hindus and Sikhs combined; but will still remain in a minority in the House as a whole. We do not consider this arrangement satisfactory or in consonance with the expressed views of our official colleagues, already referred to. Muslim opinion throughout India has repeatedly and emphatically declared in favour of representation on population basis for the Muslims in the Punjab and Bengal; and we are convinced that it will be difficult to reconcile them to a figure which falls short of this demand. The Muslim Members of the Punjab Government in their Memorandum to the Simon Commission proposed 51 per cent. representation for

the Muslims in the Punjab. In reducing the Muslim strength they were actuated by a desire to meet the sentiments and wishes of Hindus and Sikhs in the province. The Punjab Reforms Committee also made similar proposals with a view to restoring harmony and giving to the Sikhs an added sense of security. It is a matter of common knowledge that the Muslim press and public took strong exception to these proposals. The recommendations of the Simon Commission on the subject have created further resentment, and the Muslim opinion throughout India has condemned these proposals in no mild terms. It is asserted that of the Muslim claims, which are essential for their existence as a self-respecting entity in the country under the future constitution, not one has been conceded by the Indian Statutory Commission. It is admitted that a federal form of government has been proposed; but it is pointed out that this can have no attraction for the Muslims if they have to play the second fiddle, both in the Central Legislature as well as the provinces.

Again, with regard to separate electorates it is said that the recommendations are hedged in to such an extent, and involve the acceptance of conditions which will reduce the Muslims to a position of perpetual minority everywhere, that they virtually amount to forcing the Mussalmans to merge into common electorates. The Muslims in the Punjab and Bengal have been given a choice between a 'dagger and the poison bowl'. According to the Simon Commission they must either accept joint electorates or else agree to give up their due share in the Legislatures. Under these circumstances some of their leaders contemplate advising the Muslims to review the situation and seriously consider whether it would not be advisable for them to give up separate electorates and throw in their lot with their Hindu and Sikh countrymen and take their chances in common electorates. It is pointed out that by accepting joint electorates their position cannot be any worse than that contemplated by the Simon Commission under their scheme. In short, the Mussalmans, not unnaturally, consider that they have once again been left in the lurch by their friends in whom they had reposed their confidence and trust. The extremists have not been slow in discerning the possibilities of turning into account the present resentment of the Muslims and are naturally directing their energies towards weaning the Muslims from their present position and ideals with a view to exploit them for their own purposes. We sincerely hope that better counsels will prevail and the British Government will not allow the impression to gain strength that Government's friends are invariably the losers in the end.

We are convinced that Muslim opinion in the Punjab will not be satisfied with anything less than their legitimate share of representation as warranted by their numbers. The proposals in paragraph 31 of the Memorandum fall short of these demands and therefore cannot be acceptable to them. (As regards the reservation of seats for big landholders Malik Firoz Khan Noon considers that the recommendations in paragraph 29 do not go far enough to sufficiently safeguard the interests of this important class. He feels that in the absence of a second chamber, and the removal of

the official *bloc*, it is essential that at least 15 per cent. of the total number of seats should be reserved for big landholders in order to get a fair element of this class in the House which will exert the necessary steadying influence; and he feels that an increased representation of this class should be secured immediately instead of deferring it till such time as the inadequacy of their representation is demonstrated by a breakdown of the legislative machinery.)

Paragraph 24.—To the observations in paragraph 24 of the Memorandum we would like to add that “all constituencies whether Muslim, Hindu, Sikh or others should be thrown open to members of all communities irrespective of their creed”. This suggestion was made by one of the Muslim Members of the Punjab Government in a previous Memorandum and was endorsed by the Punjab Reforms Committee. We consider that this will be a step forward towards the goal of joint electorates.

Paragraph 43.—While we fully endorse the views expressed in paragraph 42, we regret that we are unable to agree with the observations and conclusions contained in paragraph 43 of the Memorandum. We consider that the proposals for extension of franchise in paragraph 106 of the Report are on the whole sound. In this connection we wish to remark that one of the obstacles in the way of early introduction of common electorates is the existing disparity between the electors of the various communities. We believe that the prospects of setting up joint electorates in the near future will be considerably strengthened if this disparity is reduced.

Paragraph 57.—We notice that the observations in paragraph 57 of the Memorandum are to some extent in conflict with the remarks contained in paragraph 71. We consider that residuary powers should remain with the provinces and this principle should apply equally to matters in the legislative field.

Paragraph 62.—We consider that the second sentence in paragraph 62 is too vague. We recommend that the next step towards devolution in the Centre should take place not later than 10 years from the date on which the revised constitution comes into force in the provinces. This would give ample time to the provinces to sufficiently consolidate their position against any risk of interference from the Central Government or Legislature.

Paragraph 64.—We are of the opinion that the existing practice of appointing Members of the Governor-General's Executive Council under the Royal Sign Manual should continue till such time as all the subjects are transferred to popular Ministers. We see no difficulty in reconciling this with the Simon Commission's proposal as the discretion of the Viceroy to recommend suitable names will remain unimpaired. So far as the appointment of Indian Members is concerned, we are not aware of any instance in which the Viceroy's recommendation has not been accepted by the Secretary of State; and we do not apprehend a departure from this convention in future.

Paragraph 71.—We confess that we are at a loss to understand the meaning or implications of the opening remarks in the last

sentence of paragraph 71. If it is meant that the residuary powers in respect of the subjects transferred in the provincial field should be retained by Parliament we most emphatically disagree, as a provision of this nature may conceivably result in complete negation of 'responsibility and autonomy' proposed to be conferred in the provincial sphere. We, however, entirely agree with the concluding portion of that sentence.

Paragraph 77.—In addition to multiplication of training schools we should like to see an Indian Sandhurst established at the earliest possible date. We consider this to be a necessary corollary to the other proposals contained in this paragraph.

Paragraph 78.—In view of the considerations enumerated in paragraph 72 of the Memorandum we consider it desirable that the Punjab should be adequately represented in 'the Committee on Army Affairs'.

While agreeing generally with the observations in Chapter V of the Memorandum, we feel that a definite time limit must be fixed within which the process of Indianization should be completed and the control of the army handed over to a popular Minister of the Cabinet. We consider that 20 years would be a safe and adequate period for the purpose. If at the end of that period Indian officers of sufficient status and experience are not available to fill all the higher staff appointments, it should be possible to secure the services of British officers through the War Office till such time as suitable Indians can be found to replace them. We contemplate that even after the process of Indianization has been completed British officers will still be available to help and guide their Indian compeers. It will also be desirable to secure close connection between the British and Indian armies and this can be done by a periodical exchange of officers between the two armies. It will not be out of place to mention here that Japan successfully created and organised a highly efficient army within a short period; and we see no reason why India, which has the additional advantage of possessing a magnificent fighting force, should not be able to achieve the same result within the next twenty years.

Paragraph 83.—While we endorse the views contained in Chapter VI of the Memorandum we do not share the apprehensions of our official colleagues with regard to the imposition of terminal taxes. We consider the proposal of Sir W. T. Layton of great value as it will afford the provinces an opportunity of imposing indirect taxation, which is considered by the people to be less burdensome and is therefore comparatively less unpopular than the direct taxation.

Paragraph 92.—As regards borrowing, we feel that we cannot do better than commending the proposals contained in paragraph 130 of the Punjab Reforms Committee's report which we consider from every point of view suitable. We reproduce below this paragraph for convenience:—

“Another matter raised during the deliberations of the Joint Free Conference was the question of conceding to the provinces the right of raising loans on their own re-

sponsibility and credit without interference from the central government. While we consider it necessary that the central government should be invariably consulted in all cases where the provinces desire to raise loans, the former should not ordinarily stand in the way of the provinces making their own arrangements if it is to their advantage to do so. A convention should, however, be established which would allow the various provinces to meet together under the ægis of the Government of India to discuss questions of provincial credit, and the requirements of the various provinces from time to time in the way of loans, which they desire to float in this country, or elsewhere. We feel that the varying credit of the different provinces may adversely affect the position of provinces with a better and more stable financial credit if loans were always to be raised through the Government of India. Moreover, freedom of action in the matter of borrowing would encourage the provinces to consolidate and strengthen their financial position and resources. We are, however, of opinion that in case of external transactions and loans raised outside the country, the Government of India's sanction should be necessary in order to avoid internal complications, and any risk to the stability of currency, and the financial credit of the country as a whole."

Paragraph 93.—We consider that the dates fixed by the Lee Commission for reconsideration of proportions in the Indian Civil Service and the Indian Police Service should for the present be adhered to. [One of us, Malik Firoz Khan Noon, is of the opinion that provincial autonomy will be a sham if the security services, Police and I. C. S. (both Executive and Judicial Branches) continue to be recruited by the Secretary of State and remain under his control for all intents and purposes. Is it not a fact that there is not a single Dominion (Australia, Canada, South Africa) where security services are recruited by a Secretary responsible to the British Parliament. He considers that if the security services in Egypt are recruited by Egyptians, there is no reason why this right should be denied to Indians. He is further of opinion that even if the British element in these services cannot be immediately brought under the control of Provincial Governments there is no reason why the Indian element should not be forthwith placed under them.]

Paragraph 94.—We are not convinced of the necessity of retaining the Indian Service of Engineers as an all-India service. While we fully appreciate the importance of our irrigation system and its enormous value as a permanent asset, we do not see how the provincialisation of this service can affect the revenues of the province as suggested in this paragraph. The power to reduce or enhance the rates of *abiana* will under the new scheme rest entirely with the local Legislature; and it is therefore obvious that the classification of the officers of the Irrigation Department under one

or the other category can have no effect so far as the depletion or inflation of revenues from this source is concerned. On the other hand, we see grave disadvantages from the provincial point of view in allowing it to continue as an all-India service. So far as the interests of the present incumbents are concerned, these are already sufficiently safeguarded under the existing rules. As regards the future recruitment of British element, we propose to leave it to the Secretary of State to enlist the requisite number of officers on behalf of the local Government. This, we consider, will sufficiently ensure the continued efficiency of the Department in future (Malik Firoz Khan Noon is of the view that so far as this particular service is concerned there is no dearth of competent and highly qualified Indians who can be recruited in this country. He considers that if there is any service for which eminently suitable Indians are available in large numbers in the country it is the irrigation service. He feels that there is no need to reserve any post for Europeans in this service; but if the provinces wish to recruit a certain percentage of Europeans, which is very likely to be the case in the Punjab, for some time to come, then they should be allowed to recruit these officers themselves through the High Commissioner for India; and as far as the recruitment of the Indian element in the irrigation service is concerned, it should be immediately placed under the full control of provinces.)

Paragraph 104.—We are in full agreement with the observations made in this paragraph; but we consider that so far as the appointment of Judges of the High Court is concerned, the proposals put forward by the Punjab Reforms Committee in paragraph 135 of their report should be adopted. They suggest that "all Judges of the High Court whether permanent, additional or acting, should be appointed by the Crown on the recommendation of the local government. No. Judges of the High Court should be removable except by the Crown on the joint recommendation of the Governor and the local Legislature".

At present the Ministers, as distinct from Members of the Executive Council are not entitled to leave of any description during the tenure of their office. We consider this as anomalous and suggest that a provision should be made in the constitution to make it possible for the Governor to grant them leave on somewhat similar conditions and terms as now apply to the Members of the Executive Council. We think that they should be allowed one month for each year of service put in by them.

SIKANDAR HAYAT KHAN,

Revenue Member.

The 11th August 1930.

FIROZ KHAN NOON,

Minister for Local Self-Government.

The 11th August 1930.

PART II.—*Minute by the Hon'ble Sardar Sir Jogindar Singh, Kt., Minister for Agriculture in the Punjab Government.*

General.—The Government of India has been in a state of evolution from the day Britannia set herself to rule India. She passed under a constitutional Government with the transfer of administration from the Company to the Crown by the passing of the Act of 1850. In 1858 Queen Victoria of revered memory solemnly declared herself bound to her Indian subjects by the same obligations of duty as to all her other subjects. The seed of representative institutions was sown by the grandfather of our present Viceroy, with the passing of the Act of 1861 and quickened into life by the Act of 1909. Then came the War, and India fought the battles of the Empire in its far flung fields: and England promised her an equality of position in the British Commonwealth. Consequently India was admitted as an equal member of the League of Nations and the Government of India Act of 1919 was passed which His Royal Highness the Duke of Connaught declared as the first step towards Swaraj.

The Simon Commission was entrusted to examine the position with a view to redeem this solemn promise. The Commission spent two years in studying the situation; and before it had furnished its report, H. E. the Viceroy journeyed to England to plead India's cause: and on his return in 1929, speaking in the name of His Majesty's Government, defined Dominion Constitution as the goal of British policy. The Indian opinion from Gandhi downward rallied round the Viceroy, ready to co-operate in preparing a scheme which would invest India with the power of guiding her own destiny in future, as an equal partner in the British Empire.

The Viceroy did not receive the support he deserved and the position secured by Lord Irwin was lost.

Then came the Simon Commission Report. It studiously avoided any affirmation as to the objective of British policy and treated the announcement made by the Viceroy as a dead letter.

The scheme prepared by the Commission provides no bridge for the halting feet to walk on the road to realisation of nationality. It places the Executive so far as the Central Government is concerned, in a stronger position than now. The report pleads that a work of architecture has to find its foundation on solid earth forgetting that it needs human hands to build it, implying willing support and approval of those concerned. Sir John Simon's declaration that you cannot put a slogan into an Act was an unhappy confession from a man of his vision. No one knows better than him how potentialities of progress are stirred by a way cry. India expects Britannia to lead her to the promised land: any failure to meet this demand sounds as if England herself was losing faith in her mission; reluctant to realise the inevitable results of the forces set in motion by her. People are aware of the difficulties and dangers that beset the path to the pinnacle of power, but they are animated by high hopes that these can be overcome under proper guidance and leadership. The Commission missed a great opportunity by adhering to a narrow interpretation of its functions.

The all-India solution has found no favour and will have to be greatly modified, if it is to place India in a position to govern herself.

The Punjab.—Let me begin with my own Province. The Punjab stands between the North-West Frontier and the rest of India: it is inhabited by martial races. It has a large Muslim population which has been swept by Pan-Islamic idea more than once, along with other Muslim countries on the border-land, such as N.-W. F. P., Afghanistan, Persia and Turkey. The idea of reviving the glories of Islam is natural and never absent. In dealing with the Punjab, is it wise to ignore this aspect of the problem and its reaction on the rest of India? More than any other province the Punjab needs a legislature and a cabinet which provides a balance between the communities. The presence of the Sikh Community is a factor of some importance to the Province.

Provincial Autonomy.—The Commission has decided wisely to confer on the Provinces provincial autonomy under safeguards. The formation of a Cabinet with joint responsibility to the legislature is an ideal which has been the ambition of the Provinces to reach: but joint responsibility can only begin in joint electorates. The Commission has suggested no advance and official Members in their note have accepted a position which I must confess is not tenable. It gives fresh life to communal groups and rather than help the growth of self-Government will undermine its foundations. Joint responsibility demands joint electorates and if the minorities in the Province are not asking for any protection, in the way of separate Electorate, is it reasonable to give additional protection to the majority community? If the elections are to be on the basis of communities the formation of a Cabinet must depend on communal groups.

British Representation.—I do not see why the British should have no representative in the cabinet. The presence of a Britisher in the cabinet may provide a balancing influence and may help the Ministers selected from communal groups to so act as to serve all. I am aware of the criticism that an official Minister in the Cabinet is not consistent with principles of democracy; this is not altogether true as long as British forces and British officials are required, and as long as British stake in the country is as great as now, it is but fair to recognise the need of British representation in the Cabinet in the same way and on the same grounds as is claimed by other minority communities. If the appointment of an unelected Minister seems illogical there is nothing to prevent an official seeking election from a Special British constituency after resigning his appointment in the Civil Service. I feel that when I claim that the Statute should provide for the presence of a Sikh in the Provincial Cabinet on the strength of my community's importance and stake in the country, I cannot consistently refuse British representation in the Cabinet; the British community is no less important than any other minority community in India. To my mind it would secure greater harmony if a Britisher finds a seat in the Cabinet itself and is responsible for the decisions that are arrived at, rather than the arrangement which the official

members propose; the appointment of a Principal Cabinet Secretary who can criticise, without sharing the responsibility of decisions. He will be like a British Resident in an Indian State, an interested critic,—without responsibility,—reporting to the Governor. If there is to be no British Minister in the Cabinet the Punjab cabinet should consist of half Muslims and the other half non-Muslims. The Sikh position is that as long as communal representation remains there should be statutory provision for the inclusion of Sikhs in the Ministry and the Sikh or Sikhs who are selected for appointment should enjoy the confidence of the majority of the Sikh Members of the Council.

Appointment of a Chief Minister.—The question whether there should be a Chief Minister is full of difficulties. If Cabinet is to function, it must have a Chief Minister, but it would make good Government in the Punjab altogether unworkable, if the Chief Minister comes from the majority group and selects his Hindu and Sikh colleagues, who promise to be subservient to his community. Indeed, the prize of Chief Ministership should be reserved as the reward of forming a non-communal party dependent on the confidence of all communities. In the earlier stages it would be wise if the Governor selects Ministers from the communal groups and appoints them, till the Council itself reaches a stage when it can disregard communal considerations. The Governor could ascertain before he makes final appointments if the persons he wishes to select are ready to work together and accept joint responsibility and allow the Minister selected to choose a Chief Minister from among themselves to retain his position as long as he enjoys the confidence of his colleagues.

Reserve powers.—I have no objection to the Governor having powers as defined in paragraph 49 of Simon Commission Report. Indeed, it is my hope that Cabinets and Legislative Councils will work in such a way that the Governor will be rarely called upon to use his reserve powers, which will fall out of use as the powers of the Crown have fallen into disuse in other parts of the Empire.

Mechanism of advance.—The Commission is right in recommending that the new constitution must carry the mechanism of advance and that Legislatures should have the power of modifying the constitution, thus conferring elasticity and enabling adjustments to be made according to the demand of new times.

Redistribution of Boundaries.—There is a good deal to be said in arranging provinces in such a way as to assure harmonious working and if communal problems present difficulties which cannot be overcome by mutual goodwill, then the only possible course is the redistribution of the provinces in such a way as to minimise communal difficulties. The scheme of representation outlined by official members for the Punjab will place the Muslim community in permanent majority. I am aware of no historical parallel, or theoretical principle for placing a community in permanent majority in the name of democracy and if no other solution can be reached, redistribution of boundaries may provide the only fair and just solution.

Dera Ghazi Khan in any case is really outside the range of the Punjab also Isa Khail Tehsil of Mianwali District. The boundaries of the Punjab may well remain this side of Indus. Dera Ghazi Khan as the official members point out must be a charge on Central revenues and find its proper place in the N.-W. F. Province or Baluchistan.

Size of Provincial Councils.—I think it would be a mistake to make the size of the Council too large or to lower the franchise too much. Having provided the mechanism of advance the movement in the direction of increasing or decreasing the number of members, lowering or raising the franchise should be left to the Council itself. Now if we take the present Council it has:—

34 Mohamadans.

23 Hindus.

13 Sikhs.

The Council is safe from acting in a communal manner by the presence of an official *bloc* numbering 16 and 6 nominated members the official *bloc* therefore represents about 17 per cent. of the Council. In the new constitution the official members disagreeing with the Commission's recommendations propose:—

The total composition of a house is as follows:—

Muslims	.	.	.	.	.	.	.	.	.	66
Hindus	.	.	.	.	.	.	.	.	.	40
Sikhs	.	.	.	.	.	.	.	.	.	24
Europeans	.	.	.	.	.	.	.	.	.	2
Labour	.	.	.	.	.	.	.	.	.	1
Christian	.	.	.	.	.	.	.	.	.	1
										<hr/>
Total										134
										<hr/>

The labour seat may as well be accounted for as a Muslim seat thus securing 67 solid seats to the Muslim community, and the balance scattered amongst the other. Does any one imagine that a fixed majority of 67 could ever be moved, or allow the growth of a party system or National Government? The argument that in other provinces there will be Hindu majority does not strengthen the case. In other provinces Muslim minority have been given weightage almost to doubling their representation—a substantial concession—but in the Punjab we are expected to accept a false-creed that a majority community should get preference on the basis of population, while representation is based on property franchise. So far as I am aware this doctrine has formed no part of democracy anywhere, but some phrases acquire a fatal fascination and refuse to be dislodged.

It is difficult to follow the reasoning which has led to this decision. Ordinarily, protection is extended to minorities, but in the Punjab it is the majority that is to be safely established in permanent power in the name of popular Government. It must be remembered that British Government has succeeded by its non-

communal character. A communal majority should be in a position of dependence; so that it may seek reconciliation and understanding with other communities and endeavour to give satisfaction. Our aim is to promote the growth of nationality and self-Government and we must not knowingly introduce elements which are likely to exert a disruptive force. I am, therefore, strongly opposed to the recognition of the principle that a majority community should be in permanent majority, as long as representation is by separate communal electorates and based on property and other special qualifications. It must be admitted that provincial autonomy is only possible under safeguards, which can secure a Government not by one community but by all the communities for all the people of the Punjab. The idea that reserve powers vested in the Governor and the Government of India will prevent any break down will be found in practice an exploded myth. No Governor could be in permanent opposition to his legislature. The safeguards must therefore be in the Council itself and provide for the merging of the communities. This can be done by the allotment of seats not on the population basis but on the voting strength and so long as adult franchise is not introduced it is illogical to bring into play the principle of population. The importance of a majority community can only be judged by its services, by its usefulness, and by its stake in the country. So far as population of peasants (*Jats*) is concerned, the Muslim population is no larger than the combined Hindu and Sikh population. Indeed, in this world of ours it is minorities that have dominated nations, and though the ideals of pure democracy demand a new orientation, the biological factor still confers power on those whom God has dowered with the gift of ruling.

In the days of Cromwell the question was raised. Ireton defined the principle that voting should be based on property and confined to those who have a permanent stake in the country. Colonel Rainboro in his passionate vision swept aside the requirements of expediency and experience, and said, "I think the poorest and that is in England hath a life to live as the richest he." It has taken England all these years to introduce adult franchise, while we are ready immediately to sacrifice vested interests. Take the Punjab: the eight colony districts pay 221 lakhs in land revenue and 281 lakhs in water rates as compared with 234 lakhs in revenue and 281 lakhs in water rate by the remaining 21 districts of the districts. If we were to separate the Central districts the contribution of the Muslim districts will sink into insignificance and yet it is the population of these districts which gives Muslims their majority. Is it reasonable to expect the Central districts to accept this arrangement, which would place them in such an invidious position? The position is clearly illustrated by the present constituencies. The number of voters for one member of each community are as follows:—

9,500 votes to one Muslim member.

12,055 votes to one Hindu member.

14,300 votes to one Sikh member.

Under the new proposals this will alter as follows:—

7,320 votes to a Muslim member.

10,314 votes to a Hindu member.

11,143 votes to a Sikh member.

Is this right, equitable or expedient that an important minority like the Sikhs should get a member for 11,143 votes to the 7,320 votes required for a Muslim? Is it reasonable to expect the Sikh community to accept such an arrangement? Everywhere it is minorities that are given protection, here minorities are to be penalised and refused their share which their voting strength gives. Can population be the governing factor as long as property franchise remains? I must clearly say that my community will never accept this arrangement.

To summarise, we should not forget the end in view which is the growth of common citizenship, the establishment of self-governing institution, development of a sense of mutual helpfulness and responsibility, and maintenance of those conditions of peace and security which are essential for the social, moral and material development of the province. The conclusions reached by the Simon Commission in paragraph 85 are based on full understanding of the Muslim claims and must prevail. I can assert without any hesitation that the proposed arrangement is not acceptable to two powerful communities and that they are not prepared to surrender on this point.

Electorates.—In the matter of electorates the Sikh community has much to lose by advocating joint electorates: but we recognise that to promote national ends we must sacrifice communal ends. The village people have never asked for separate electorates. Mr. Darling bears witness to the happy relations existing in the villages in his last book. It would be tragic if, when the constituencies are enlarged, we introduce a new line of cleavage in the villages and disturb the co-operative spirit which makes for union. There is no reason why all the rural constituencies should not have joint electorates as well as special constituencies. Separate electorates should be confined to urban areas and at the most extend to the present constituencies. The Commission has suggested the forming of primaries so that the candidates acceptable to any community may be elected, this to my mind meets all the objections. We must recognise the danger of communities consolidating on a communal basis, and if minority communities do not want them, is it reasonable to keep them in the interest of a majority community?

Landholders constituency.—The Commission recommends the abolition of constituencies for landholders under a misapprehension. The idea that landholders can secure their seats through ordinary channels and that there should be no special provision for them is based on wrong premises. The number of large landholders in the Punjab is very small, and consequently powers is likely to pass on to the tenants and the small peasants. The landholders and commercial classes as captains of industry have

always served as rocks to break the onslaught of disruptive and disorderly forces. I agree with all that the Official Members say regarding the retention of these constituencies. The special representation of the landholders is of paramount importance to protect vested interests and to serve as bulwarks of good Government. Of course it is not possible to agree to the proposed allotment by communities. There does not seem any reason why nine Tumandars should be given a member. Landlords are men of education and influence, and relations between Muslim, Sikh and Hindu landholders are cordial. I propose that they should form common constituencies and elect their representatives without any regard for religion. It is only in this way that we can promote common citizenship.

The Sikhs.—The position of the Sikhs has failed to win recognition from the Official Members. What is the good of Government expressing its sympathy and recognising the important services of the Sikh community in the past and yet neglecting the claims of the community. A Muslim is to get a seat on 7,000 voters while a Sikh is to get one seat for 11,000 voters. How can such a proposal satisfy the Sikhs? It is not only on communal grounds that I urge the claims of the Sikh community but also on the ground of public utility. When official *bloc* disappears, with it will disappear the stable and balancing influence which has made for the smooth working of the Reforms. The Punjab is, however, fortunate in having Sikh community which can serve in holding the scales even, and prevent one community from dominating the other. Indeed, the Sikh community provides an element of strength which it would be unwise to dissipate. Let the Sikhs have their just dues, that is representation on their voting strength as long as property franchise, remains in force. The Simon Commission very pertinently pointed out that the Muhammadan community, was getting weightage both in the Assembly and in other Provinces, where it is in a minority, on the ground of its importance. Is it fair, to penalise the Sikhs? I must confess in the Punjab the problem of minorities ends with protecting the majority, unalterable by any appeals to electorate.

Votes for Women.—Regarding votes for women, so far as my community is concerned we are ready to welcome the franchise but I am not sure if the time has arrived for such a large extension of the vote. I think a proposal of this kind should come from the Council itself.

All-India Solution.—The All-India solution on which the Commission lay great deal of stress can only be proved by the touchstone of time. The need of the moment is that the Central Government should have the power to maintain unity in India, and, to exert the influence in helping backward areas to come up to the level of advanced provinces. The Central Government must be truly national in character and provide the model for the provinces to follow. It must be strong enough to preserve present standards of administration, securing even handed justice for all, helping in broadening the basis of civic life. The Federal Assembly must, therefore, be so elected as to secure this high purpose; and I feel

that in early stages it would be unwise to make it dependent on provinces, or allow provincial views to dominate. The idea that provinces are sovereign States is a myth, with no foundations in fact. The Government of India Act, itself bears ample evidence and the report of the Simon Commission is no exception. Therefore in truth it is Government of India which will delegate power to provinces, rather than province surrender power to Government of India. Indeed, as long as Government of India is even partially responsible to Parliament: there can be no question of its dependence on provinces. When provinces are fully established in self-Government it will be time for the Assembly to be truly federal in character. The Official Members have argued at great length on the position of the provinces in the Federal Assembly. They apprehend that Central Legislature may impose its will against local feelings and may claim independence and over-riding authority, but the arguments advanced by them in connection with transfer of responsibility in the Centre, run counter to these arguments, for they plead that, to permit provinces to grow in the transitional period, the Central Government must possess both stability and strength. I ask for nothing else, and as the provincial Governments will be in various stages of growth, all residuary powers must therefore remain with the Central Government.

The Centre.—I am not concerned whether the Central Assembly is called the Federal Assembly or an Indian Parliament as long as Central Government is in a position to control and guide the provinces. It is essential that the unity of India should be preserved, a unity that has been achieved after long years, and a unity that is the source of its present strength. The federation in whatever form it takes shape must not allow this sub-continent to fall into small States without cohesion and without strength, powerless to define its frontiers, as happen in the days of yore. For many years to come, it seems to me, provinces will need a vitalising Centre to help them.

Elections.—In the present state of India I am attracted by a system of indirect elections but on closer examination I find that nowhere in the world federal assemblies are drawn from popular houses. It may be desirable to create primaries electing to an electoral college of which the Legislative Council may form a part, but I cannot agree that federated assembly should be primarily drawn from the provincial councils. The objection to elections from provincial councils appears to me to be:—

- (i) It will rob the provincial councils of the best men and leave the province poorer.
- (ii) This will prove a source of weakness both to the provinces and the Central Government. Indirect elections will narrow the field of election.

What we need in the Assembly are men of broad views, the best that the country can give, so that the Central Government may receive requisite strength and support.

In the Federal Assembly and the Council of State the number of Sikh seats should be specially provided.

Council of State.—I am in favour of retaining the Council of State. I would reserve 1/3rd seats for retired Ministers, hereditary magnates, and merchant-princes, whom the Government should have the power of nominating for life.

The Viceroy's Cabinet.—The Commission recommends that the Viceroy should retain his Executive Council without any transfer of responsibility to legislature. The experience of last ten years bears ample evidence, that unless there are direct relations between the Executive and the Legislature, deadlocks are inevitable. The Commission seems to be aware that this arrangement is not likely to be satisfactory, and aims at securing members of the Assembly as members of Viceregal Cabinet by giving the Viceroy the discretion to appoint them. I cannot see, if Indian members are to be drawn from Central Legislatures, what serious results are apprehended if they became responsible to central legislature. If the change is not likely to weaken the stability of Central Government on which the Official Members lay such an emphasis, there is no reason why responsibility should not be transferred to legislature.

The proposals to retain Viceroy's Cabinet in its present form, are not based on any clear appraisalment of advantages and disadvantages, otherwise, it is abundantly clear that it is impossible to work an Executive divorced from Legislature in responsibility. There are no grounds to fear that transfer of responsibility at the Centre will be more disastrous than it has proved in the provinces. The Official Members hold that during the transition period the scheme proposed by the Simon Commission should be followed. I am afraid that the delay in introducing responsibility at the centre will only delay settlement. I have nowhere seen it stated that the risks to which the Central Government will be exposed, by transfer of Departments, holding portfolios which are administered in the provinces by Ministers responsible to Provincial Councils. The leader of the House as proposed by the Simon Commission should be appointed from amongst the members of the legislature and there should be some instructions regarding the claims of Sikhs in Viceregal Cabinet. The Viceroy should have the authority of selecting a fixed number of British Ministers to Foreign and Political and any other portfolios which he considers desirable who should hold seats in the Legislature.

Indian States.—The position of Indian States in a self-governing India seems difficult only, if the Indian Princes still cherish the idea that they can partake in all the advantages which the constitutional Government secures for British India and yet they remain irresponsible rulers in their own States. They will have to come to a decision, but till this decision is reached, the Indian States can remain as now in relation to the Crown through the Viceroy. If however, they wish to take any share in the federation and financial advantages that are likely to flow from it, they will have to maintain the required standards of administration. The claim for financial adjustments must depend on the States joining the federation. I agree with the Official Members that the day is distant, for such a federation, but when it comes, there does not

seem any reason why the Ministers representing the States should not find admittance to the Council of State. There are States and States. The smaller States should form part of the provinces to which they belong and the larger States can come into the Indian federation. The States might make a start at least in one direction. Most of the States have introduced laws modelled on Indian Civil and Criminal legislation. They might now go a step forward and entrust the administration of the laws to a supreme central Delhi.

Finance.—The financial proposals outlined by Sir William Layton, are on sound lines and the creation of a provincial fund and collection of revenue by the central authority for provinces will provide an additional source of strength. I am in agreement with what the Official Members say on the financial proposals of the Commission. Regarding definite recommendations, there is no reason to take fright as they will have to be accepted by properly constituted representative Councils.

All-India Services.—The advantages of all-India Services are, to secure men of character and ability, who are free from communal bias. The recruitment of all-India Services, therefore, should be entirely through competition and the standard which has been set by British traditions should be strictly maintained. I am in agreement with what H. E. the Governor says regarding following the Lee Commission recommendations till 1949, when the matter can come for reconsideration again.

The present system of nominating members from minorities to all-India Services who are not qualified and cannot get through the competition should be dropped. To provide room for minorities the only possible way seems, to me, is to make a selection from officers who have been tried, and who have proved themselves worthy to be admitted to the Imperial Service by their character, ability and freedom from communal leanings.

High Court.—I entirely agree with the recommendation of the Commission that the High Courts should be under the Central Government, so that the Judiciary may be entirely independent of any political parties that may be formed in the Province on lines other than national. In spite of what the Official Members say, I think all High Courts should be transferred to the Government of India as the Simon Commission recommends.

The Army.—Complete severance of control of the Army from the legislature turns constitutional advance into a mockery. I agree that His Excellency the Commander-in-Chief should remain outside the legislature. I recognise that British troops lent to India might remain outside the control of legislature and may form a charge on the Imperial and Indian Revenue. There can, however, be no question that Indian Army should be under the control of the Legislature, and as in the early days, a limited number of British officers can be lent to maintain its efficiency. It would not be difficult to provide for the continuation of a common general staff, supplies and services which can form a charge on a non-votable consolidated Army fund which can be created. The Committee

on Army affairs can bring the representative of the Legislature and the Army together to serve as a council of Indian defence.

I am confident that the arrangement I propose will secure the position of the British army on the one hand and satisfy Indian opinion on the other. I can see no other solution which could fulfil these conditions.

In conclusion, I need only recall the objective of British policy, which is to raise India into a self-governing Dominion and there seems no other alternative, if peace and progress are to be secured, but to confer Dominion constitution under proper safeguards. There is wonderful work awaiting for us all, if we co-operate in making India self-governing. Failure to reach an understanding is not without its dangers; the former promises peace and prosperity, the latter an endless struggle. The refusal to accede to this demand can only result in poisoning the sources of good will and creation of difficulties, which must ultimately drive the two countries apart.

A great victory awaits Britannia if it would co-operate in securing a larger life for India, with the main object of protecting not this or that institution, this or that class or creed, but the whole people, their laws and their liberties, regardless of petty expedients, however attractive at the moment, which must eventually fail, for in this God's universe, truth and justice must eventually prevail.

JOGINDRA SINGH.

Minister for Agriculture.

11th August 1930.

PART III.—*Minute containing the opinion of the Hon'ble Mr. Manohar Lal, Minister for Education.*

INTRODUCTORY.

(SIMON COMMISSION REPORT, PART I.)

Chapter I of the Official Memorandum.—It is undoubted that any constitutional system propounded for India must be judged as a whole, but it is also necessary to remember that the test which is applied to any proposals is whether they satisfy the insistent demand of political India for rapid steps towards the introduction of full responsible Government or to use the more common short expression envisage the early realization of Dominion Status for this country. This is recognized by all political India as an undoubted and necessary implication in the Preamble of the Government of India Act, 1919. In attempting an All-India solution of India's constitutional problem the Commission proposes two basic ideas, (i) that the future constitution of India is to be on federal lines, and (ii) whatever constitution is now introduced it will so incorporate in it the principle of flexibility that future changes and progress will be secured by the healthy method of growth rather than artificial statutory jumps.

2. The principle of Federation for the Indian constitution has been widely questioned. In my Minute dated the 22nd of August 1928 (Memorandum prepared for the use of the Indian Statutory Commission, Volume II) in speaking of Provincial Autonomy, I said, "But in attaining the idea of responsible government within the provinces, use is constantly made of expressions such as 'autonomy', 'constituent governments in a federated union' that have implications other than legal which deserve consideration. The ideal of provincial autonomy has attractions, it is undoubtedly true that in any properly limited provincial field the knowledge and interest available within the province must work for efficiency of administration and if sectional forces were not at work lead to increased general welfare, but it will be a sad situation if as a consequence the already numerous schismatic tendencies in Indian life were to acquire an accession of strength by reducing the provinces into separate sealed units, and the growing national sentiment of comparatively recent origin should thereby suffer any check. In devising the provincial spheres of government, this fundamental consideration that bonds of nationhood should not weaken must be constantly borne in view as the most essential test. The provinces are creatures of executive fiat for administrative reasons, and in trying to attain self-government through these somewhat artificial units our supreme loyalty to India as a whole must not in any form or degree be strained or violated. India does not represent a composite state based on a union of distinct political entities, there is no federation here formed of a union of component sovereign states as in the United States of America. Nor does the pursuit of such a federal ideal by deliberately clothing provincial governments with any marks of sovereignty lead to the realization of what the politically conscious India desire." I still adhere to this view. It is admitted everywhere that considerable decentralization by the Central Government is necessary for efficiency of administration, but this is not inconsistent with the idea of having a Unitary Government. It has, however, to be borne in mind that where a number of provinces with considerable powers exist there must be some method by which their separate administrations are brought into relation, but this is, I take it, not all that is meant by Federation. The Report throws no particular light on it, but it is clear that in the past a strong Central Government with large immediate contacts with the provinces has been a factor of the utmost importance in this country where disruptive forces are always asserting themselves and where separatist tendencies in the shape of race, religion and language need careful checking. One concrete contribution of the Commission towards the realization of the idea of federation is that the lower House in the Central Legislature, called the Federal Assembly, should be indirectly elected by the Provincial Legislatures. In the Official Memorandum this is described as a further step in the direction of confederation. To a student of constitutional history this comes as a shock. Nowhere in any of the constitutions of Federal Governments is there a single instance of a House corresponding to the Federal Assembly, that is the popular chamber of the Union, being elected indirectly

by the legislatures of the Units of the Federal group. The wisdom of constitution makers hitherto has never thought fit to make the federal popular chamber based otherwise than on the suffrage of the whole country. Federation has depended upon other factors. It has been based on the distribution of powers and functions of sovereignty between the Union Government and the members of Confederation so as not to be subject to alteration except with the agreement of both parties, the constituent states possessed of autonomous powers or sovereignty merging their existence into a Union, part with certain powers and a definite legal position arises, and future changes depend upon the terms of the constitution. Nowhere is the idea of indirect election, even remotely, considered as having anything to do with the idea of a Federation. It is not, as the Official Memorandum would have it, the political tinge from Provincial legislatures derived from indirect election that furnishes any step much less a basic idea in the constitution of Federal Governments. This is new wisdom devised for India, and would require strong justification in face of the paramount considerations such as those to which I have referred above, namely:—

- (i) the imperious need of checking separatist tendencies;
- (ii) the historic necessity established in the course of ages of a firm Central Government with large powers, not merely in the interest of peace and safety, of control and superintendence over the provinces; and
- (iii) thirdly, and this political India values particularly, of the need, nay of the sacred duty, of watching that the growing national sentiment of comparative recent origin in this country suffers no shock or change.

3. I cannot help feeling that the result of the unprecedented step suggested by the Commission in the supposed interests of Federation can only be to affect injuriously Indian national sentiment, and tend to impair the unity of the country in the long run. It will also seriously impair the efficiency of the Central Legislature, in so far as it will be inspired by the narrow parochial views prevailing in the provinces and no longer view broad questions touching the whole of the country such as defence, and the trade and industry of the land from that all-India point of view so essential for their proper solution.

4. The other basic idea, the principle of flexibility on which so much stress has been laid by the Commission, is of wide validity, but the Commission has confined it within the narrowest possible limits. In paragraph 95 of their Report the Commission says that it would be open to a legislature to effect certain constitutional amendments of matters of “(a) changes in the number, distribution or boundaries of constituencies, or in the number of members returned by them, (b) changes in the franchise or in the method of election, or (c) changes in the method of representation of particular communities”, under certain very limited conditions. Now the well-recognized meaning of provincial autonomy, an ideal the realization of which political India almost unanimously at

the earliest possible stage, among other things, is complete responsibility of the executive to the Provincial Legislature. This involves as a necessary consequence that the Governor should occupy the position of what is known as a constitutional Governor. The proper principle of flexibility, even in the Provincial field, to which, in this connection the report particularly refers, should provide within the constitution the possibility of this position arising. Of this I see no indication in the report, and, now that the machinery of occasional or periodic parliamentary enquiry is to be abandoned, it is difficult to see how, in this essential regard, the position can be changed. A doubt is therefore expressed, and not unnaturally, by some that the so-called principle of flexibility can only have the effect of deferring effective provincial autonomy. Subject to these reflections I entirely endorse the virtue and desirability of having an elastic constitution.

II.—PROVINCIAL REDISTRIBUTION.

(SIMON COMMISSION REPORT, PARAGRAPHS 27 AND 38.)

5. I generally support the views expressed in the Official Memorandum in paragraphs 10 to 14. It is a mistake to raise the question of provincial redistribution at the time of the revision of the constitution. I am not in a position to speak even with regard to the areas for which the Official Memorandum suggests the possible need of early solution, but it appears to me that if enquiries into the question of the separation of Sind are to be instituted the introduction of the new constitution into the Bombay Presidency may have to be deferred, and large and involved questions of finance with possible reactions on the whole of India will have to be faced, apart from the extreme undesirability of creating a province by executive fiat where the result is certainly to be the enthronement into power of a communal party. Government's action in this regard is certain to be misunderstood and bound to lead to local and probably wider agitation. On the whole, therefore, it would seem to be wise to defer this question for the time.

III.—THE GOVERNORS' PROVINCES.

The Provincial Executive.

SIMON REPORT, PART II, CHAPTER I, PARAGRAPH 46. PARAGRAPHS 15 *et seq.* OF THE OFFICIAL MEMORANDUM.

6. I agree with the Report and the Official Memorandum as regards the general character and position of the Ministry, that is,

- (i) unitary government responsible to the legislature for the whole provincial field should be established;
- (ii) the principle of joint responsibility of the Cabinet should be enforced;
- (iii) as a necessary corollary of (ii) it should be constitutionally established that the only vote of censure which could

be proposed would be one against the Ministry as a whole carried after due notice; and

- (iv) the provision as regards Ministerial salaries should be made by a Provincial Statute, and not be liable to be reduced or denied by a vote in supply.

7. I think the appointment of Under Secretaries as suggested in the Official Memorandum would be a step in the right direction.

8. As regards the inclusion of an official member in the Ministry I agree with the Official Memorandum that, in this Province at any rate, no such member should be included in the Ministry. The inclusion of such a member would introduce a grave anomaly in an otherwise responsible Cabinet. It would not make for reality so far as joint responsibility of the Cabinet is concerned and it will generally be a source of weakness.

The introduction of an official member in the Ministry is so radically inconsistent with the idea of a Cabinet truly responsible to the legislature that I do not favour such an arrangement in any province, and I do not feel pressed by the consideration that in Presidencies where Governors are directly appointed from England and possess no previous experience of the details of Indian administration and conditions the need for an experienced technical Indian administrator in the Cabinet can override the fundamental principle of true Cabinet responsibility.

In paragraph 16 of the Official Memorandum it is proposed that in view of the fact that—

- (i) no official member with technical administrative experience will exist in the Cabinet, and
- (ii) the Governor himself will not always be present at the meetings of the Cabinet, a Secretary with certain powers should be appointed. He is described as a Cabinet Secretary with enlarged functions to be called the Principal and Cabinet Secretary. It is difficult to speak with certainty, but it appears that a Secretary clothed with the status here intended and possessed of powers with reference to other departments here contemplated and entitled to address the Cabinet even though without a vote may tend to impair the real authority of the Ministry, particularly if we remember that he is certain to be a very senior member of the Indian Civil Service with possibly near prospects of preferment to a Governorship. If this result should follow it would be an unfortunate consequence. I am not aware that a Secretary of such status and power is associated with responsible Cabinets anywhere else in the world and the particular need for one in the circumstances of India is not clearly made out to my mind.

9. A circumstance that I should like to mention as of some importance is this, that in provinces where it is customary to appoint to Governors' office senior members of the Indian Civil

Service, who now usually occupy the office of official member of the Executive Council, the disappearance of the official member will undoubtedly cause a difficulty. If a senior member of the Service were raised to Governorship without having been a colleague in the Government of the Ministers and who has been technically subordinate to the Ministers until the eve of his appointment it would obviously constitute an awkward position.

10. I agree that the power be reserved to the Governor to appoint a non-official as a Minister who is not an elected member of the legislature in the circumstances set forth in paragraph 16 of the Official Memorandum.

11. I am in general agreement with paragraph 17 of the Official Memorandum as regards the selection of the Cabinet. The appointment of a Chief Minister should be a matter discretionary with the Governor depending upon the circumstances of each Province. It is easy to see what the Simon Commission Report says at the end of paragraph 55 that "in some circumstances the formation of a Ministry from different communities might present less difficulties if there was no Chief Minister and no recognized leadership of the Ministry". It is clear that in the Punjab no Ministry would be just or proper or desirable which did not include members from the three leading communities of the Province, even though if official recommendations regarding communal proportions in the Council are adopted, a solely Muslim ministry can carry on particularly if a few non-Muhammadans and Sikhs can be detached from their normal grouping, as is not unlikely in view of past experience.

12. A reference is made in paragraph 17 of the Official Memorandum to the need of including members from the three leading communities into the Cabinet because the present parties are constituted on a communal basis. It follows as a necessary corollary in view of the fact that in the past a few Hindus have found themselves ranged in the Muslim group that no representation in the Cabinet of Hindus, a most important minority in the Punjab, will be acceptable to that community unless the selection were made from the Hindu group proper.

13. I am in general agreement with the Official Memorandum in paragraph 18 as regards the Governor's presence at Cabinet meetings and the right of a Minister to record a minute of dissent.

14. *Paragraphs 19, 20 and 21 of the Official Memorandum and paragraph 50 read with paragraph 182 of the Simon Commission Report.*—It is obvious that where safeguards are necessary they can be enforced only through the Governor and also in case of a breakdown power must vest in the Governor to carry on administration, and I find myself in general agreement with the view expressed in paragraph 20 of the Official Memorandum. There is great force in clothing the Governor with special powers where the financial stability of the Province may be in danger.

But it must not be forgotten that the real demand of the people is that the transference of the present reserved subjects to the Ministers should not form any occasion for increase, however

indirectly, in the power of the executive as represented by the Governor, and that not merely with regard to subjects now transferred but also as regards those which are to be hereafter transferred, such as Law and Order, in other words general powers should be on the same footing with regard to all subjects. Political India's demand is for a constitutional Governor. In the Simon Commission Report, as I have already remarked, though so much stress is laid on the principle of growth within the constitution, no provision is made for any approach towards this position.

B.—*The Provincial Legislature.*

15. *Paragraph 23 of the Official Memorandum. Size of Provincial Councils.*—The recommendation of the Simon Commission that the Provincial Councils should be as large as between 200 and 250 is not suitable to the conditions of this Province. I do not propose to define the exact numbers, but I should like to point out that though the elected strength of the present Council is only 71 members, we have a fair proportion of members who would not normally find a place in a legislature representing over 20 millions of people. The official proposal is to raise the total to 134 and this without the official *bloc* and nearly all elected. In paragraph 44 of the Official Memorandum in dealing with the question of a second chamber it is said that "a Legislative Council expanded even to the moderate dimensions we have proposed will absorb for some time to come all that we can reasonably expect to secure in the way of persons fitted for the exercise of legislative functions". I regard this as an unduly optimistic interpretation of existing facts not borne out by the recent or past history of our Chamber. The more correct position is that stated in paragraph 23 of the Official Memorandum where it is said, "We see no useful purpose which would be served by making the Council larger and on the contrary think that such an increase of size might result in deterioration in the quality of members returned. In the Punjab with few large industries and with the bulk of the land held by small peasant proprietors the number of men of a responsible character who have leisure to devote time to work on a legislature is few". In view of this I have no hesitation in saying that we ought in no case to go beyond 134 members and should really try to keep a more compact House particularly as it would be possible for the house itself to expand by its own resolution later on if found desirable.

16. The opinion of the Simon Commission to maintain separate communal representation is the saddest part of the report from the point of view of a nationalist. It brings despair to those who had looked forward to an outside body to resolve the unhappy obstacle that must bar India making any progress on the path of democracy and real parliamentary Government. I expressed my views on this subject at some length in paragraphs 7, 14, 15, 16 and 19 of the Minutes of the Unofficial Members submitted to the Indian Statutory Commission. It is clear from the Official Memorandum submitted to the Simon Commission, paragraphs 7 and 17, "that the predominant lines of cleavage are still communal though an effort has been made to give it a political tinge. The electorate at

the moment thinks and acts communally; until the communal factor ceases to be paramount the most stable parties will be fundamentally communal. The result is that the parliamentary system under which one party gives place to another on account of a change of allegiance on the part of a portion of the electors or their representatives will have in the near future no counterpart in the Punjab", and further the authors of the Official Memorandum to the Statutory Commission recognized that this position is "to some extent stereotyped by the fixation of the proportion of seats on a communal basis". As I then said "the present system enshrines a non-political principle in the bosom of the constitution itself". It was, therefore, not to be wondered at that the makings of parliamentary Government did not exist in India and genuine party system based on policy rather than class divisions, factions and interests could not grow. If the recommendations of the Commission on the question of separate representation of communities is to be given effect to anti-political class and communal divisions will be *permanently stereotyped* for it is not to be expected that later amendments by constitutional resolutions contemplated in paragraph 95 of the Report will lead to any escape from this vicious and undemocratic principle, particularly as there is no reason to imagine that communities favoured under the arrangements now to be made would wish to renounce their positions of advantage. Some have thought, and with much justice, that one of the main tasks that lay upon a Commission that came to study problems and devise schemes of real responsibility and democratic Government was boldly to find a way out of the present communal morass, and their failure to prescribe for India's ills in this regard is failure in the fundamental task of conceiving a proper polity for India.

17. On the details of the official views on communal representation, I regret that I have large differences to record. On the general question of communal representation, particularly the number of Muhammadan seats, the Commission has taken the short course of adopting the Lucknow Pact which was entered into some 13 or 14 years ago with reference to the conditions then prevailing and have recommended in paragraph 85 that while in 6 out of the 8 provinces the present scale of weightage in favour of Muhammadans might properly be retained in the Punjab in regard to *general* constituencies the present position should continue, that is, Muhammadan seats should be equal to the seats given to Hindus and Sikhs. The Commission "is not prepared to go so far as to give Muhammadans a fixed and unalterable majority in the general constituency seats in the Punjab". Our Official Memorandum, however, considers this illogical and would give the Muhammadans a clear majority over the other two major communities both in the general constituencies and in the total composition of the Legislative Council.

18. In paragraph 31, which deals with general constituencies, the authors of the Official Memorandum propose to increase the Muslim seats from 32 to 63,

Hindus from 20 to 36,

and Sikhs from 12 to 23,

resulting in a total of 63 for Muslims as against 59 for the other two communities. In the total composition of the House they would give 66 to Muslims and 64 to the other two communities even if we accept the official view as regards the communities to which certain special seats will fall. This official allocation of seats I cannot endorse. It is difficult to see why in practically doubling the seats in the general constituencies the Hindu position should be worse than it is to-day, and similarly why an important community like the Hindus should have less than its proportion in the population. In the total composition of the House the Hindus out of 134 seats according to their population ratio of more than 31½ per cent. (and not 31 per cent. as the Official Memorandum speaks of them in paragraph 30, *vide* paragraph 85 of the Simon Commission Report, Volume I, where exact numbers are given) would be entitled to a little over 42 seats, and yet the official recommendation is for 40 seats even if we regard the special seats to be correctly appraised in the Official Memorandum. No reason whatsoever is given why the Hindus should have a smaller representation than would be justified either by their proportion in the population or by their proportion in the voting strength. As a matter of fact the same considerations that were allowed to weigh in giving heavy weightage to Muslims in 6 Provinces and to Sikhs in the Punjab have full validity in justifying an adequate improvement in the position of the Hindu minority here beyond their population basis. (I am not speaking on the merits of the Sikh claims to have further and larger weightage given to them for special reasons urged by them.)

19. In this connection we have to remember further how the Hindu position would deteriorate because—

- (i) of the removal of the official *bloc* which had tempered any extravagant communal claim on the part of a community that had majority representation, and
- (ii) also that the Muslim members represent a solid compact *bloc* to which at least some Hindus have throughout the history of the Council been attracted for reasons which it is not necessary to canvass here and thus reducing the Hindu figures below their proper strength. Nor can we forget the general attractional force which is bound to make the Europeans and Christians, apart from other considerations, gravitate towards the largest group in the House.

20. We must further remember that a clear communal majority and political domination on the part of a single community particularly in the circumstances of the Punjab over the other two leading communities should not be permitted because it is not giving effect to any proper political principle and the object of a responsible political system even in India cannot be to enthrone a community as such in political domination. The Hindus, and I think the Sikhs, have made no secret of this that if communal representation were not to exist they are prepared to take their places in the fortunes of any general election even though that

might be to reduce their position below their present strength, but they are equally emphatic that by no statute or rule should political domination be given merely to a religious community. In any event it is clear that the position of an important minority, if not actually improved, should not be made worse than it is at the present moment. As I have said above I have failed to discover in the Official Memorandum any justification or reason for proposing to worsen the Hindu position. The Hindus of the Punjab constitute a minority, that judged by every standard justifying special consideration, should receive additional representation as a minority: they have high voting qualifications, they have undertaken heavy sacrifices in the cause of general social reform, and have pursued successfully expensive programmes of educational work (at Lahore they have 3 Colleges as against one Muslim and in the Mufassil they have established a large number of high schools, Intermediate Colleges and one degree institution), and they take a notable position in all progressive movements. Political training, educational advance, economic strength alike point to special consideration for the Hindus here, once the standard of population is departed from in any part of India and communal representation is enforced.

In the Punjab the insistence on separate electorates is made by the community that is in the majority.

21. Paragraph 33 of the Official Memorandum throws a considerable light on the voting strength of the various communities.

22. Coming to the special seats, I think, they ought to be kept completely outside the purview of communal calculations. This principle is well recognized in the Montagu-Chelmsford report and other constitutional documents of importance. With regard to the details of special seats referred to in paragraph 31 of the Official Memorandum I would point out that it is erroneous to consider the University, Industry and Commerce seats as Hindu. These seats are not reserved for Hindus and non-Hindus do stand and compete and influence elections, and the constituencies are non-communal and presumably affect representation. In the University constituency the position is such that in case of a contest if the number of Hindu candidates was more than two, as has not been unknown, a Muslim has a fair chance of return.

Commerce.—This seat has during the last three elections gone to a European Christian and I cannot see that it should be now considered as one which will necessarily fall to the lot of the Hindu.

Depressed Classes.—I do not favour that a further schism should be created in the already unfortunately small number of Hindu seats by giving one to the depressed classes as such. The Official Memorandum does recognize in paragraph 25 that their numbers are apt to be exaggerated, they do not represent a pressing problem in the Punjab, some of them at any rate will come through general constituencies because of the enfranchisement of tenants and some might get representation in the special labour constituency. The Hindu depressed classes do not as such represent any special economic position. In the circumstances, particularly as a special

constituency cannot be created for them, I do not agree that a nominated representative from out of the Hindu members can be properly carved out for them.

The additional labour seat is regarded indeterminate by the authors of the Official Memorandum. It appears to me that this seat is almost certain to be a Muslim seat. They represent the larger mass of labour in urban areas where alone a constituency such as is contemplated can be created.

At present a special constituency exists for Industry, and I can see no reason why this should be dropped. Industries represent a big and growing interest and if special representation is to exist at all Industry certainly is clearly marked for distinct recognition, especially as the number of industrial concerns is now on the increase. All the circumstances that led to the creation of the seat have gained in strength since 1920.

On the question of landholders' constituencies I am in entire agreement with the report of the Simon Commission. Large landholders occupy a very prominent place in our legislature even at the present moment and there is no reason why their presence should be secured by the device of special representation or their numbers increased. In the Official Memorandum it is proposed to increase the number of Muslim landholders from 1 to 2.

The retention of a seat for the small and special class of the Tumandars of Dera Ghazi Khan—a district only a part of which can be regarded as properly Punjab—seems to have no justification whatsoever. No Tumandar interests have occupied the attention of the Legislature during the past ten years, and to give one seat to a constituency of only ten votes appears to be the negation of all sound principles of special representation.

To sum up, in my view therefore the Industry seat should be retained, there is no occasion to have special seat for the depressed classes to be filled up by nomination from out of the Hindu seats, the special representation of landholders should cease and the Tumandar seat should be abolished. I agree to a seat for Christians, one also for labour and the seats proposed for Europeans though it must be remembered that, in so far as these seats constitute representation beyond what would be justified by their strength in the population, they tend to affect adversely the Hindus and the Sikhs more than the Muslims.

23. I apprehend that the deterioration proposed in the Hindu position in the Official Memorandum will have most unfortunate consequences throughout the country: *heavy weightage at the cost of Hindus to Muslims in other Provinces, depression of Hindus below both their population strength and voting strength in the Punjab where they are in a minority.*

Paragraph 33 of the Official Memorandum.—Even this rough calculation of voting strength indicates that the Hindus should receive a larger measure of representation.

24. I agree with paragraph 34 of the Official Memorandum.

25. *Paragraphs 35 and 36.*—I have already said that the seat for industry should not be abolished. I see no reason to differ from the conclusions of the Commission with regard to landlords.

26. *Paragraph 37.*—I agree that the nomination should be limited very narrowly but as I have said already it would not be proper to carve a seat for the depressed classes from the already very inadequate Hindu representation.

27. *Paragraph 39 of the Official Memorandum. Paragraph 95 of the Commission's Report.*—I agree that a constitutional resolution such as mentioned should be competent for a legislature but I see no great likelihood of any good emerging from it if communal and separate electorates are fixed now.

C.—*The Franchise (Chapter 3).*

I agree with sub-paragraphs (1) and (2) of paragraph 42 of the Official Memorandum. It is desirable that the disparity between the percentages of enfranchised urban and rural populations respectively should be reduced, and also that a portion of the tenants of land should receive vote. But I regret that the authors of the Official Memorandum differ from the Simon Commission Report as regards the enfranchisement of women. Further in paragraph 106 of the Commission's Report it is suggested that it might be desirable to introduce an additional qualification based on education independently of property such, for example, as the attainment of the 5th class before leaving school. In sub-paragraph (4) of paragraph 42 of the Official Memorandum it is not prepared to give the right of vote even to those who have passed the Matriculation Examination of any University which is much higher than what was contemplated by the Simon Commission Report. I am very clearly of opinion that this additional franchise based on the Matriculation Examination should be created. It will not add to any large extent to the electoral roll and it might have some encouraging effect on the progress of education and I am sure would be popular.

29. *Paragraph 43 of the Official Memorandum.*—I am in general agreement with the view expressed in this paragraph that it will not be desirable at the present stage to reduce property qualifications below what might result in more than doubling the present number of voters. In fact it is doubtful whether such a big step should be taken at once.

The factors involved in lowering the qualifications are so complex that they can only be investigated by a special committee on franchise, such as is suggested in the Simon Commission Report.

D.—*The Second Chamber (Chapter 4).*

30. I am also of the opinion that, so far as this Province is concerned, the balance of argument is against having a second Chamber. I am not sufficiently familiar with conditions in other provinces but my opinion is that the general circumstances which led the authors of the Montagu-Chelmsford Report to regard the

second Chamber as impracticable, and unnecessary in provinces still hold good, and the argument of Abbé Siéyes about the superfluous character of a second Chamber apply at any rate so far as the constituent legislatures of any federation are concerned.

IV.—THE BACKWARD TRACTS.

(PART III, CHAPTER 2.)

31. *Paragraphs 47 and 48 of the Official Memorandum.*—I fully agree with the views expressed in these paragraphs.

V.—THE CENTRE.

(REPORT, PART IV.)

A.—*The Federal Assembly.*

32. *Paragraph 49 of the Official Memorandum.*—I have already said that I deprecate the idea of indirect election for the Federal Assembly. There is no precedent for it in the history of Federations. It will tend to impair the efficiency of the Chamber as an organ for the expression of opinion on subjects of vital Indian interests or on legislating on these subjects.

I find it difficult, partly in view of the fact that I have not accepted the official recommendations as regards the numbers of our Council or their allocation among the various communities, to work out the probable effects of the method of proportional representation in case indirect election is adopted.

33. *Paragraph 50 of the Official Memorandum.*—I fully agree that it will not be possible nor would it be appropriate that a person should be a member of both legislatures at one and the same time.

34. *Paragraph 51 of the Official Memorandum.*—There is not enough material to indicate whether the communal proportions calculated in paragraphs 143 and 145 of the Simon Commission Report would actually result. I wish to make no observations about the feelings of any one community that their representation in the Assembly should substantially exceed their proportion in the population of the country, but it is clear that if any such weightage is to be given to any community in the Assembly the case for the Hindus in the Punjab for substantial weightage beyond that indicated by their numbers would further gain in strength.

In paragraph 52 of the Official Memorandum the method advocated in paragraph 139 of the Simon Commission Report to secure representation for various classes and interests is described as one proceeding mainly on federal lines. I do not see how this method proceeds on any lines that can be properly described as federal, but it is possible that the method may secure some approach to a due share of representation to the various communities (*i.e.*, of 'due'

is used in the technical sense of reflection of members belonging to a particular community in a province) irrespective of whether this representation is in itself fair or just. But I am not clear that the method will secure adequate representation for such interests as industry, commerce and finance.

B.—*The Council of State.*

35. *Paragraph 54 of the Official Memorandum.*—I support a Second Chamber in the Central Legislature, and that its term should be seven years. A bicameral system exists in most countries and the need for it is recognized.

As regards the number, in my view it should not be less than half the size of the Assembly, otherwise its voice will not have its proper weight in a joint session. I have no strong feelings about what proportion of such a House should be elected and what nominated, nor as regards the composition of the nominated members.

36. *Paragraphs 54 and 55 of the Official Memorandum.*—On the whole I am in favour of direct election. The electorate is at once highly qualified and small and there is no occasion for resort to indirect election. The one essential for the composition of an upper House is that it should not be a mere replica of the lower House and at the same time should not interfere with proper democratic form of Government.

37. *Paragraph 57 of the Official Memorandum. The Power of Legislation of the Central Government.*—I am in agreement with the recommendations contained in the Simon Commission Report and would deprecate all attempts to restrict the range of the legislative powers at the Centre. There is no occasion for unnecessary suspicion against the Central Legislature. Abundant safeguards, as pointed out in this paragraph, are already available and the concurrent jurisdiction of the Central Legislature where it exists should not be curtailed. I also agree with the opinion expressed at the close of paragraph 155 of the Commission's Report.

C.—*The Governor-General in Council.*

38. I share the general Indian opinion that a certain measure of responsibility should be introduced in the Central Executive, and the Indian demand on this head is well known and I find myself in general agreement with it. I am not impressed by the arguments urged in paragraph 60 of the Official Memorandum for deferring this responsibility at the Centre. The force of Indian sentiment is a powerful political fact which cannot be ignored. The responsive spirit to which the Official Memorandum refers in paragraph 63 affords no substitute for the clear demand made by political India, and it is doubtful whether the Commission's report really makes any provision for the growth of such a spirit. The device that the Members of his Executive Council should be appointed by the Governor-General in place of the present system of appointments being made on the advice of the Secretary of State for India by His Majesty and the possible occasional selection of

an elected member would not secure the object. On the other hand if the present system is to continue, that is, there is to be no responsibility at the Centre, my opinion is that the existing system of appointments should not be disturbed because that will be the only method of securing some measure of independence for members of the Executive Council.

D.—Relations between the Centre and the Provinces.

39. *Paragraphs 68 to 71 of the Official Memorandum.*—I am in general agreement with these paragraphs of the Official Memorandum.

VI.—THE QUESTION OF DEFENCE AND THE ARMY.

40. The Simon Commission Report emphasizes that for a 'very long time to come it will be impossible for the Army entrusted with the task of defending India to dispense with a very considerable British element'. It conveys a strong warning against what it describes 'a precipitate embarkation on a wholesale process of substituting Indian for British personnel'. It speaks of the 'difficulty almost insurmountable of relinquishing control over an Army so composed to any Ministers responsible to an elected legislature'. Such a transfer according to the Report 'could only take place when no part of the Army in India consists of British Officers or troops recruited by the Imperial Government', and it sees no prospect of this happening for many years. A complete Indianized Army is not within sight at all. The Report then proceeds to emphasize the Imperial aspect of Frontier defence. It then comes to the conclusion that in view of this and other circumstances the Army in India should be removed from the control of the Government of India and placed under an Imperial Agency. 'India and Britain are so related that Indian defence cannot now or in any future which is within sight be regarded as a matter of purely Indian concern'. It propounds the strange doctrine that the 'protection of the frontiers of India at any rate for a long time to come should not be regarded as a function of an Indian Government in relation with an Indian Legislature but as a matter of supreme concern to the whole Empire which can only be effectively organized and controlled by an Imperial Agency'. It therefore inevitably follows that the forces composing the 'existing Army in India would no longer be under the control of the Government of India, but an Imperial authority which would naturally be the Viceroy acting in concert with the Commander-in-Chief' should have charge of this army.

Now it is obvious that no responsible Government in India can be established unless the country is able to look after its own defence. The Commission removes India's defence from India's control and yet for some reason, which it is not easy to see, in paragraph 208 of their Report, the Commission regards their scheme as removing a block on the line of India's constitutional advance. In paragraph 214 the possibility of their scheme being regarded as 'a derogation from the full range of Indian aspira-

tions' is considered, but an answer is offered at the end of the paragraph in words from which I at any rate have not been able to spell out any meaning.

41. In paragraph 211 of their Report the Commission speaks of the possibility of an alternative Dominion Army containing no British element which the Government of India might organize. The Commission does recognize that there is no finance available for the development of such a force because of the heavy contribution which India already makes towards the maintenance of the present Army. It is not even pointed out that as this Dominion Army grows, *pro tanto*, there might be a corresponding reduction in the existing Army to be hereafter regarded the Imperial Army. It is difficult therefore to understand what the Commission means at the end of the paragraph by saying "We appreciate the fact, however, that in the end a self-governing India can only, hope to function with reasonable prospect of success if it can command military forces of its own, and our proposal helps to remove an obstacle to the ultimate possession of such forces". An adequate military force of its own will certainly cost India something approaching what the present Army costs. Is it then to be expected that India can by some magic out of her limited resources find itself one day in possession of such a Dominion Army side by side with the existing (Imperial) Army? It appears therefore that if Indian political advance can be secured only by looking after her own defences the proposals of the Commission postpone this date to the Greek Kalends.

42. In paragraph 74 of the Official Memorandum the main features of the Commission's scheme are set forth and later a reference is made to the eventual emergence of a Dominion Army and the position during the transitional period. As I have already remarked, so far as the Commission is concerned, the limit of transition period is not discernible as far as the eye of man can penetrate, and the Indianized Dominion force can really never materialize.

43. In paragraph 77 of the Official Memorandum opinions are expressed about the Indian feeling on the more rapid growth of Indianization. With these I am in full sympathy.

The proposals of the Commission while they fail in the supreme test which is to be applied to all constitutional proposals for this country, *i.e.*, how far they envisage a rapid movement towards responsible Government do not make clear why even the present contact with the Army that the Government of India has should disappear. While the demand of political India is that the control of defence may be kept from a responsible executive only for the short period of transition, the Commission roundly suggests that the Government of India should have nothing to do with defence!

44. I agree with the Official Memorandum, paragraph 78, that if a Committee is to be all the contact which the Government of India is to have with the Army we may ask for the enlargement of the functions of this Committee such as are suggested in para-

graph 78 of the Official Memorandum. I do not, however, see the exact force of the suggestion that Indian members of the Governor-General's Executive Council should be included in this Committee unless it is intended to be a counterpart of the claim made by many thoughtful Indians that while the subject of defence continues reserved the Member in charge should be an Indian Member of the Governor-General's Executive Council.

45. I am in general agreement with paragraph 79 of the Official Memorandum.

46. I agree with paragraph 170 of the Commission's Report that the Commander-in-Chief should no longer be a Member of the Cabinet or in the Legislature, but I am distinctly of opinion that questions of defence should fall within the portfolio of a Member of the Executive Council and should not be dealt with merely by an Army Secretary.

VII.—FINANCE.

(REPORT, PART VIII.)

47. The Official Memorandum does not attempt to deal with the details of Sir William Layton's scheme because of the lack of necessary data for adequate expression. I have also felt that in this scheme expectations of revenue and estimates of income and economies in the growth of Central expenditure are framed on an unduly optimistic basis. Some of the features of the scheme, however, can be fully endorsed such, for example, as the recognition of the need of the provinces to expand especially in nation building activities.

48. On the question of surcharge on personal income I had occasion to express my views in the Minute which I submitted to the Simon Commission. (This is partly reproduced below for convenience of reference.) I do not agree with the suggestion made in paragraph 82 of the present Official Memorandum that the Provincial Government should have the discretion to tax incomes below the present exemption limit of Rs. 2,000. This would probably occasion a "disparity in the system of income-tax between the various provinces and it is obvious that this must be open to grave objections as such taxes are not only likely to be evaded, but calculated to injure trade and industry in a province. Nor are the political consequences of placing such power in the hands of a legislature predominantly rural and non-income-tax-paying to be ignored. The system of income-tax including as an essential factor an exemption minimum, must be uniform throughout the country—a departure from this well accepted principle will be economically without warrant and politically undesirable".

49. I wish to offer at this stage no observations on the new Provincial taxes referred to in paragraph 83 of the Official Memorandum.

50. *Paragraph 86 of the Official Memorandum.*—I agree on the general question for adequate safeguards against the most populous provinces imposing their will on other provinces.

51. I am also in agreement with paragraphs 88 to 92 of the Official Memorandum.

VIII.—THE SERVICES.

(REPORT, PART IX.)

52. In regard to services two considerations offer themselves:

- (i) it is undoubtedly necessary that for some period of time All-India Services even in a newly reserved Provincial field must continue, and probably the best method of recruitment for these is by the Secretary of State for reasons detailed in paragraph 93 of the Official Memorandum. The Memorandum, however, does not define the transition period during which this obvious constitutional anomaly must continue. Complete authority as regards recruitment and control of public services is necessarily implicit in any full system of responsible Government.
- (ii) the second important consideration is that the continuance of these services should not so operate as to defer even by a single day the achievement of full responsibility, and this is the test which must control our views as regards the services.

In my view the date, 1949, suggested by the Official Memorandum for a reconsideration, is far too remote and if political conditions which India desires are to obtain I am distinctly of opinion that Indianization will have to proceed much faster than at the rate contemplated by the Lee Commission.

It is not necessary for me to enter into the details of privileges which have to be conceded either to existing officers in All-India Services or to future recruits but it may be said that while all proper safeguards for existing officers must continue it would be impolitic and unfair to extend their privileges as regards retirement or otherwise beyond what are secured to them at the present time, and as regards future recruits special privileges should be confined within the strictest limits so as not to conflict unduly with the rights of a responsible executive to control services.

53. *Paragraph 102 of the Official Memorandum.*—I agree that a Provincial Public Services Commission should be established.

I fear that in our services the paramount interests of efficiency are not infrequently ignored as concessions to communal claims. The evil is so persistent that the necessity of adoption of suitable safeguards even by regulation by Statute is often strongly urged. The expression "just and reasonable claims" of any community is difficult to define. In the Punjab this has taken a double shape. Firstly admission in the Professional Colleges is itself regulated along communal lines and even then the successful candidates have not the chance of admission into Government service on the basis of efficiency. The claims of communities have to be considered for a second time. The position is further complicated by the fact that

definite policies have been laid with regard to the recruitment of agriculturists as such to public services. The double requirements of communities and of belonging to a particular profession have to be satisfied and it is not difficult to see how the interests of efficiency must suffer in arrangements of this character. I entirely agree with the official view that fixed percentages or recital of rights in Statute appear to introduce an element of undue regimentation, and the matter must be left, so far as possible, to the general discretion and powers of the Governor.

IX.—THE HIGH COURTS.

(SIMON COMMISSION REPORT, PART X.)

54. I am in entire agreement with the recommendations of the Simon Commission in Part X of their report. The administrative and financial control of the High Court and its establishments, buildings, contingencies, etc., should be assumed by the Governor-General in Council and these matters should be a charge on Central revenues as recommended by the Commission. There need, however, be no change in the functions of the provincial executive in connection with the administration of the subordinate judiciary and their relations with the High Court in this connection. I am unable to accept the arguments in paragraph 109 of the Official Memorandum where a doubt is cast on the validity of the recommendations of the Commission. The High Courts have considerable power under the Letters Patent in connection with their establishments and these powers should not in any manner be curtailed and should receive their full scope as would be possible under the recommendations of the Commission.

RELATIONS BETWEEN THE HOME AND INDIAN GOVERNMENTS.

(SIMON COMMISSION REPORT, PART XI.)

55. *Paragraph 110 of the Official Memorandum.*—I agree.

MANOHAR LAL,

Minister for Education, Punjab.

The 11th August 1930.

ENCLOSURES.

(1) Letter from Nawab Malik Mohammad Hayat Khan Noon, Commissioner, Lahore, Division, No. 637/C., dated Lahore, the 31st July 1930.

I have the honour to forward a copy of the letters received from the Deputy Commissioners of the Lahore Division. I have hardly anything to add to what has been said by the Deputy Commissioners

as to the reception given to the recommendations of the Commission in this Division. The urban Hindus can hardly be differentiated from the Hindus who belong to the Congress, and all of them equally condemn the report. This also applies to the educated shop-keepers, and traders of the rural areas. The Sikhs are also dissatisfied with the report, and the extremist Sikh is just as earnest in condemning the recommendations of the Commission as the Congress. The Mohammedans are also not pleased with the report and they think that in the Punjab and Bengal they have not been recommended for the majority of seats in the Legislatures to which they are entitled by population and that refusal to separation of Sind is also another legitimate grievance. Probably they are inwardly satisfied over the proposed separate electorates and with the proposed Provincial Autonomy system suggested by the Commission. The ordinary Zamindars of the rural area have not taken the trouble to acquaint themselves, with the recommendations of the Commission, and they do not worry themselves over it. The cheapness of agricultural produce is their chief grievance. All the educated Indians, whether Hindus, Mohammedans or Sikhs, are dissatisfied with the following proposals of the Commission, namely,—

- (1) that the Governors should have the power to appoint ministers from the officials or non-elected members; and
- (2) the slow Indianization of the civil and military services.

2. I believe very few people have read the report, and their opinion and conversation are based on what has been said in the press about it.

(2) Letter from E. M. Jenkins, Esq., I.C.S., Deputy Commissioner, Hoshiarpur, No. 181/S., dated the 24th July 1930.

I have the honour to say that little active interest in the report of the Statutory Commission has been shown in this district. Indeed, so far as I am aware, the Rev. F. B. McCuskey of the A. P. Mission is the only resident of the district who is in possession of both volumes of the report. Even I am in possession only of the second volume. In the circumstances it is idle to expect any very useful contribution to the discussion of the reforms from my visitors. Their knowledge of the proposals of the Commission is based solely on the summary which appeared in the press, and their criticisms are usually taken ready made from whatever newspaper they happen to read.

2. So far as the congress party is concerned, their attitude can be judged by the speeches made at public meetings. These speeches make no attempt at a detailed analysis of the proposals or at constructive criticism. When the Commission or the report are mentioned they are referred to in terms of obloquy. There is no congressman of any brains or education at large in this district at present; and any public opinion discernible in congress circles finds expression merely in unintelligent condemnation.

Most urban Hindus are in sympathy with the congress, but from conversations with educated men of this class who are not professed congressmen, I should judge that they are disappointed with the proposals mainly (a) because the residuary powers to be left to the Governor are considered to be incompatible with a democratic constitution; and (b) because indirect election to the Central Legislature, and the independent powers of the Governor-General and the Central Executive are regarded as reactionary. This latter objection is perhaps attributable not so much to abstract principles as to a feeling that the Hindus could dominate the whole country through a central organisation possessing great powers and controlled by a directly elected legislature. In other words, I suspect that the urban Hindu would prefer a federation based from the first on the centre. For his taste the present proposals smack too much of an ultimate federation of sovereign states in which the federal Government will merely co-ordinate and administer certain central subjects by common consent.

The Muhammadan community generally is more easily satisfied. The idea underlying the proposals is approved, and I have heard no hint of a criticism that may be regarded as fundamental. But it is felt (a) that the treatment of the Muhammadan majorities in Bengal and the Punjab is inconsistent with the treatment of the Hindu majorities in the United Provinces and elsewhere, and (b) that the arrangements at the centre might be more satisfactory. On the first of these objections the argument is that the non-Muhammadan minorities in the Punjab and presumably in Bengal are allowed "weightage" just as the Muhammadan minority in the United Provinces is allowed "weightage" but while the Commission has not scrupled to allow the Hindus the full advantage of their numbers in the United Provinces, a similar advantage has been denied to the Muhammadans in the Punjab and Bengal. This point was not adequately dealt with in the summary, and the reasons for the Commission's recommendations are only clear from the report itself. On the second objection, I cannot be very definite, but I think that direct election to the Central Legislature is favoured, though the Muhammadan idea of what the Central Government should be is by no means the same as that of the urban Hindus.

Of the Zamindar class, the vast majority do not know what the Commission was, why it was appointed, or what its recommendations are. The educated *zamindar* of the *zaildar* class troubles himself very little over the whole matter, and I have heard few definite opinions or criticisms.

3. To sum up, the congress professes to be irreconcilable. The report is opposed to educated Hindu opinion because it is believed that a federation of a different type would be more advantageous to the Hindu community, and because the proposed provincial autonomy is regarded as neutralized by reactionary safeguards. It is criticised by intelligent Muhammadans as unfair on the minority question, and as reactionary as regards the Central Government. It has hardly been examined at all by the *zamindars* other than

those who by up-bringing or education take a definitely communal view of politics and share the views of the educated members of their community, *e.g.*, relatives or friends of the Pleader class. I think that the Muhammadans and the *zamindars* generally will regard the provincial recommendations as a real advance and will be satisfied with some modifications at the centre. But the Hindu criticism I should judge to be fundamental, and I doubt if there will be any willing acceptance either of the provincial or of the central arrangements whatever minor modifications may be made.

(3) Letter from Khan Bahadur Mian Abdul Aziz, M.A., C.B.E., Deputy Commissioner, Jullunder, No. 595, dated the 21st July 1930.

I have the honour to submit a brief report regarding the receptions given to the recommendations of the Commission in Jullundur.

2. Nobody in the district appears to have studied the report. Whatever opinions have been arrived at have been arrived at on the basis of notices in the Press and as there notices have been neither fair nor exhaustive there is good reason to conclude that an unfavourable reception was inevitable. The report would have had quite a different reception if the Commission had arranged for skilful publicity through a series of lectures (arranged beforehand) that could have been delivered at important centres soon after the publication of the 2nd Volume of the report.

3. The Jullundur District has a number of Congress Workers but no congress politicians of any note. The workers take their cue from what is said in Bombay or Simla and never give themselves the trouble of thinking about constitutional questions in the light of actual facts. The same remarks apply to Sikh and Muslim organisations in the District. There is only one word to describe political thought as it exists in Jullundur—*imitation*. And Jullundur is typical of the Punjab.

(4) Letter from P. Marsden, Esq., I.C.S., Deputy Commissioner, Gurdaspur, No. 519, dated the 24th July 1930.

I have the honour to inform you that the following is my estimate of the reception given to the recommendations of the Indian Statutory Commission in this district.

2. The zamindars of the villages know and think very little about it.

3. Hindu congressmen, so far as I can find, have had a nasty shock. Their game is chiefly of bluff, and until now they were under the impression that despite the intensive campaign of rudeness against the gentlemen who were members of the Commission, nevertheless the report would turn out to give them very much more than it has. Their references to it continue to be mere blind abuse, as the congress is a well drilled body, and all its members repeat the slogans of their leaders without either understanding or thinking much about them.

4. Neutral or anti-congress Hindus appear to be disappointed, partly because they expected changes of an even more radical nature, and partly because the report has to some extent awakened them to a sense of the realities of the situation. References in the Report to the Indian States and to the defence of India have made them begin to think that the difficulties are hardly to be solved by the facile methods of Gandhi and Nehru. Also they are disappointed by a feeling that not only have the Muhammadans scored, but that the completeness of the reasoning of the report makes it most unlikely that their decisions in this respect will be reversed.

5. The Muhammadans are a great deal more definite in their appreciations of the Report than the other communities. Inwardly they feel considerable satisfaction at some of the most vital of their claims having been conceded. As Punjabi Muhammadans they welcome the proposals for provincial autonomy, the abolition of dyarchy and the method of election of Legislative Assembly members. When questioned they invariably claim a good deal more than the Commission proposes to give them, both as residents of India and as members of the Muhammadan community. But I am convinced that the average thinking Muhammadan feels that the claims of his community have been thoroughly and sympathetically weighed, and also that he has a feeling of relief that in matters of defence and ultimate safeguards the determination and common sense of John Bull appear to be standing firm against the sentimentality and plausibility of Mohan Gandhi.

(5) Letter from Rai Sahib Lala Labhu Ram, M.A., LL.B., Deputy Commissioner, Gujranwala, No. 568, dated the 28th July 1930.

I have the honour to say as follows:—

2. The report has not been received with satisfaction or approval by any community. All the three communities (Mohammedans, Hindus and Sikhs) regard it more or less, as being retrograde and reactionary.

3. Muhammadans generally and Muhammadan Zamindars approve the retention of separate electorates with satisfaction. They also view with favour the new provincial constitution and the abolition of dyarchy but they take exception to the empowering of Governors to appoint non-elected ministers. They want modifications in the following important matters:—

- (a) Election to the Federal Assembly direct votes.
- (b) Appointment of elected members as ministers in Provincial Governments.
- (c) The raising of a national Army in India and the speedy Indianization of the Military and Naval Services and the establishment of an Indian Sandhurst.
- (d) They want 1/3rd share in the Federal Legislature and Federal Cabinet and also an increasing share in the Services.

- (e) Separation of Sindh from Bombay Presidency.
- (f) The grant of full reforms to the N.-W. F. Province.

4. The views of Hindus generally are:—

- (a) They oppose the separation of Sindh and urge that the interests of Hindus in the N.-W. F. P. be safe-guarded in the contemplated scheme of reforms.
- (b) That the interests of Hindus who are a minority community in the Punjab have not been safe-guarded by the Commission.
- (c) The claim of the Muhammedan community to absolute majority in the Punjab is tantamount to substituting Muslim Raj for British Government and this should not be allowed.
- (d) Recruitment to services should be by merit.
- (e) A further division in the Hindu Community be not created by the reservation of seats for the depressed classes.

5. The Sikh view is as follows:—

- (a) The absence of any reference to Dominion status in the report is most disappointing.
- (b) Proposals about the Army are unsatisfactory.
- (c) Provincial autonomy is nominal on account of the over-riding powers of the Governor and Ministry nominated by the Governor consisting also of officials.
- (d) Adherence to Lucknow pact to which the Sikhs were never a party, is not liked.
- (e) 2 per cent. of the elected seats to the Sikhs in the Assembly would not do while 10 per cent. are allowed to Europeans with a far smaller population.

The Sikhs want that—

- (a) the provinces should be autonomous but residuary powers should be vested in a strong Central Government.
- (b) Sikhs should be allowed the same treatment as it is meted out to Muslim minorities in other provinces, *e.g.*, the United Provinces.
- (c) Sikhs will refuse to be governed by Muhammadans in this province.
- (d) Adequate share in the services.

General.—It appears that besides the removal of main defects in the report, each community wants to safe-guard its own interests and each is suspicious of the other. If one community is made master of the situation there will be endless trouble as Hindus and Sikhs will combine and will not submit to the dominance of the majority community.

(6) Letter from R. H. Crump, Esq., I.C.S., Deputy Commissioner, Amritsar, No. C-224, dated the 29th July 1930.

I have the honour to say that so far I have been unable to find any resident of the Amritsar district who has perused the Report. It is true that a debate upon the subject was held in the Municipal Committee, Amritsar and the resolution passed that the Report was reactionary, retrograde, unacceptable and impracticable. None of the members who spoke either for or against the resolution had read the Report themselves nor had the President who presided at their deliberations. The result is that any opinion expressed is entirely coloured by the views of the particular newspaper which the gentleman in question regularly reads. I am asked to give my estimate of the reception given to the recommendations of the Commission by the Congress party, the Urban Hindus (so far as disassociated from the Congress), Mohammedans generally and Zamindars generally. The Congress party has not taken the trouble even to read or attempt to understand what is actually proposed. From the very beginning they were prepared to damn the Report root and branch. There are no Urban Hindus disassociated from the Congress whose opinion is of any value. In regard to the Mohammedans, while supporting the Federal System and Separate Electorates, there is a feeling of considerable disappointment that they have not obtained their desired proportional majority in the Punjab and Bengal and that there is no definite proportion of posts reserved for them in the various services. Full reforms in the North-West Frontier Province and the separation of Sindh are subjects in which they profess to be keenly interested and somewhat disappointed that definite proposals have not been made for both. In regard to Sindh they have, most of them, quite omitted to notice that the possibility of its separation is bound up with the question of the appointment of the Boundary Question which the Simon Commission has recommended.

Zamindars generally are completely ignorant as to what the recommendations are and take not the slightest interest in the matter. The drop in the price of wheat is a matter of much greater importance to them and the difficulty of paying in the land revenue has caused them to forget that the Simon Commission ever visited India.

(7) Letter from E. H. Lincoln, Esq., V.D., Deputy Commissioner, Muzaffargarh, No. 7, dated the 16th July 1930.

I have the honour to report as follows.

2. As far as I am aware no copy of Report has yet reached the district—even I haven't got one and nobody is fully aware of what it contains! Whatever is known, therefore, has been obtained from the newspapers.

3. The district has about 30 members of the Bar, and a handful of fairly well educated zamindars, who alone are able to understand the subject. These hold views borrowed from the principal newspapers in the Punjab, which they read, *i.e.*, the Hindus

“ think ” in terms of the “ Tribune ”, and the Muhammadans in terms of the “ Muslim Outlook ”. A few others who are not quite so well educated are content to second these views also.

A few Hindu Pleaders who are moderates held a meeting at my request, to consider the matter, and the attached memo. shows their objections to the recommendations which are otherwise approved generally.

4. The bulk of the population, however, is ill-educated, and has little idea about the present constitution let alone the changes now recommended or being clamoured for by politicians. The vision of these people does not extend beyond the district. They vote at Council and District Board elections according to the “ izzat ” of the candidate, or out of obligation to him or to some supporter, and quite regardless of what he intends to do for them; and they never know what he is doing or has done for they do not realise he has any power. Their only wish is to have good officers to give them peace and justice and help them to improve their lot. They have no desire to change British Officers, but want them for preference at the head of the various departments, and would resent any change if they were to realise the full meaning of the reforms. They have shown opposition to the Congress because they were told that it seeks to take the Raj from the British. They have no desire to have a *Riyasat* raj.

Comments on Simon Commission's Report.

1. Selection of Ministers should be made by the Governor out of the elected members of the Council.

2. The Governor should not preside over the meetings of the Cabinet.

3. The appointment of Cabinet Secretary should rest with the Ministers subject to the sanction of the Governor and the Secretary should not have direct access to the Governor.

4. As regards election of members, seats should be reserved for every community on the basis of the mean of population and voting strength, as is the case now in Municipalities. The minorities might prepare a list of their representatives and these should be considered as candidates for joint election as suggested by Major Atlee.

5. There should be no distinction between votable and non-votable items of finance, the whole budget should be subject to the vote of the council.

6. The appointment of the Ministers of the Government of India may rest with the Governor-General but the Ministers should be selected out of the *elected* members of both houses and they should be responsible to the Assembly.

7. The Commander-in-Chief should be a member of the Government of India and the Government of India should be held responsible for the defence of India.

8. The Government of India with certain reservations necessary for the transitional period, should be responsible to the Indian Legislature. The Governor-General should have extraordinary powers in case the constitutional breaks down. Foreign relations should be under the Viceroy.

9. The recommendations of the Simon Commission with reference to the Army are retrograde in character. The Sken Committee's report should be acted upon.

10. The separation of Burma from India should be left to the choice of Burmese themselves.

11. The recommendations of the Simon Commission with reference to the public services are sound.

12. The election to the Legislative Assembly should be direct on the basis of joint electorates with seats reserved on population basis.

13. All other recommendations of the Simon Commission are sound and acceptable.

(S) Letter from A. V. Askwith, Esq., I.C.S., Deputy Commissioner, Multan, No. 106-C., dated the 22nd July 1930.

I have the honour to submit my report regarding the reception given in this district to the recommendations of the Indian Statutory Commission.

2. The issue of the report has excited little interest here. I doubt if two hundred non-officials could be found in the district who could state even of the broad lines of the Commission's proposals. Outside the towns even the fact that a report has been issued is scarcely known.

3. The attitude of the Congress party to the report is well known. As regards urban Hindus, I would say that at present they are generally in sympathy with the Congress. Educated Muslims are interested only in those parts of the report which deal with the question of communal representation.

4. "Zamindars generally" take little or no interest in the movement for constitutional changes. I would say that their interest in politics is confined to dissatisfaction at the spread of corruption in the public services, and the results of over-rapid Indianisation, particularly in the Irrigation Department. The demand among them for European canal engineers is strong and widespread.

5. I have ventured to mention this last point, though not strictly relevant to the present reference, because it seems to me that the headquarters authorities are sometimes inclined to shut their eyes to the extent to which the agricultural masses are being alienated from our Government by the increasing corruption and inefficiency. To me this appears the most serious feature of all in the present political situation.

Letter from the Chief Secretary to the Government of the Punjab,
No. 6504-S.-Reforms, dated the 16th September 1930.

In continuation of Mr. Irving's letter No. 4706-S.-Reforms, dated the 14th August 1930, I am directed to forward a copy of a supplementary note by the Hon'ble Captain Sikandar Hayat Khan, the Hon'ble Sir Jogendra Singh and the Hon'ble Malik Firoz Khan Noon with regard to the proposals contained in the Simon Commission Report. I am also to forward a copy of a note by the Hon'ble Mr. Manohar Lal on the same subject. I am to say that the Governor in Council (excluding the Hon'ble Revenue Member who has signed one of these notes) has nothing to add to the opinion already expressed and communicated to the Government of India.

We have already in our notes laid emphasis on the need of special representation of the land-holders. It is our considered opinion that these interests should be fully and adequately represented both in the Provincial and Central legislatures not only to safeguard the interests of this important class, but also to provide the necessary steadying influence, in India's march towards democracy. One of us, Malik Firoz Khan Noon, is of opinion that in the absence of a second chamber and in view of the impending lowering of franchise and enfranchisement of tenants, it will be unsafe to provide less than 15 out of 135 seats for the land-holding classes in the Provincial unicameral legislature. We sympathise with this proposal and are of opinion that land-holding interests should find as large a representation as possible, but in case Malik Firoz Khan Noon's proposal is not accepted, we feel, that there ought to be at least five land-holders' seats for the Province from joint electorates.

SIKANDER HYAT KHAN.

JOGENDRA SINGH.

FIROZ KHAN NOON.

The 12th September 1930.

I have read this note and see no reason to change my opinion already recorded. The arguments now advanced do not appear to me to possess any real validity. There is no reason why an express provision should be made for reserving 15 seats out of 135 for land-holding classes as a large number of rural seats are anyhow certain to be held by members of this class. Nor am I able to accept the proposal that at least 5 land-holders' seats from joint electorates should be secured. The note does not say how these five seats are

to be divided between the various communities nor is it clear whether it is intended to throw open the five seats in joint electorates, each voter having the right to vote for any five candidates without restriction. In view, however, of my general opinion about special representation to land-holders it is not necessary for me to examine this last point in any detail.

MANOHAR LAL,
Minister for Education, Punjab.

The 13th September 1930.

No. 392-D.-30, dated Rangoon, the 13th August 1930.

From—T. LISTER, Esq., I.C.S., Secretary to the Government of Burma, Reforms Office,

To—The Secretary to the Government of India, Reforms Office.

I am directed to reply to your letter No. F. 67—30-R., dated the 24th June 1930, with which you forwarded a copy of letter No. 67—30-R. of the same date to other Local Governments on the recommendations of the Indian Statutory Commission and requested the views of this Government on the portions of the Report of special applicability to Burma. You also invited an expression of any views the Government of Burma might desire to make on the other recommendations of the Commission.

2. *The separation of Burma from India.*—The Commission have given special consideration to the problem of Burma, and have recorded a unanimous opinion that Burma should be separated from India forthwith. The Government of Burma do not think it necessary to examine at any great length the reasons why the Commission have arrived at this conclusion. The conclusion is based on a memorandum prepared by this Government. That memorandum did not purport to do more than examine in a detached and impartial spirit the arguments for and against separation. The Government of Burma arrived at no conclusion in the memorandum, and made no recommendation. Their object was merely to state the case as fairly as they could for consideration by the Commission, and great weight must be attached to the fact that so impartial and authoritative a body have come down so decidedly in favour of separation. Moreover the statement of the case in paragraph 219 of Volume II of the Commission's Report is unquestionably correct. In this paragraph they mention that on the 18th February 1929 the Burma Legislative Council passed with-

out a division a motion in favour of the separation of Burma from India. On the 9th August 1930 the Council passed, again without a division, a motion thanking 'the Members of the Statutory Commission for having in accordance with the wishes of the people of Burma recommended the immediate separation of Burma from India,' and requesting 'His Majesty's Government to make an early declaration of the acceptance of their recommendation'. In neither case did the Government take any part in the debate. It is quite true that Burman politicians of extreme political views who have refused to work the present constitution still believe that Burma would get full responsible government earlier if she remained part of British India, but they wish merely to postpone the day of separation. The Government of Burma believe that they are correct in saying that even these Burmans recognize that ultimate separation is inevitable. The vast majority of Burmans appear to be wholeheartedly in favour of the immediate separation of Burma from India, and the recommendation of the Commission has been received by Burmans generally with genuine pleasure and satisfaction. If for any reason Parliament find themselves unable to accept the recommendation in favour of separation, the disappointment in Burma will be correspondingly great. Burmans (in which term for their present purposes the Government include all races indigenous to Burma) outnumber so greatly all other communities in Burma that it does not seem necessary to discuss in great detail the attitude of minority communities towards the recommendation. The Indian community naturally regards it with dislike. For obvious reasons they would prefer that Burma should remain part of British India, and also no doubt partly as the result of the recent disturbances in Rangoon, they look forward to separation with some apprehension. But as far as the Government of Burma are aware, the attitude of thinking Indians resident in Burma is quite correct. They recognize that if Burmans generally, after full consideration of the issues involved, desire that Burma should be separated from India, that desire should be acceded to, unless it can be demonstrated that for financial, military or other reasons separation is not a practicable proposition. Most of them recognize too that it will be difficult to establish a *caveat* of this kind in face of the reasoned conclusion of the Commission, and it is probable that they will concentrate mainly on securing protection for their interests in the new constitution of Burma. The Com-

mission at the end of paragraph 223 of their Report expressed an opinion that provision of this kind should be made in the new constitution, and the Government of Burma take this opportunity of recording their concurrence in this proposal. The European business community in Burma has a great stake in the country, and its influence is out of all proportion to its numerical strength. The Burma Chamber of Commerce is the medium through which the more important section of this community expresses its views on matters of public interest, and this Chamber has stated that it is 'entirely in agreement with the principle of separation of Burma from India as recommended in the Report'. It considers, however, that it is essential that 'a trade convention should be arranged which would as far as possible maintain a state of free trade between the two countries,' and it also emphasizes that the new constitution of Burma should make due provision for the protection of the interests of the non-Burman communities. The Government have already expressed their concurrence in this latter suggestion, and they will deal later with the question of a Trade Convention. For their own part, the Government of Burma are strongly in favour of the Commission's recommendation, and they regard the case for separation as overwhelming. In expressing this view, they take their stand mainly on the fundamental considerations advanced by the Commission. Burma is an entirely separate country from India, and the Burmans are an entirely separate people. They are not bound to India by any ties of common race or common language or common sentiment. They are not, and never can be part of an Indian nation. As long as there was an autocratic British Government in India, it was convenient to place Burma under the control of that Government, and the position was accepted by the people of Burma, though from time to time symptoms of discontent did manifest themselves. But as soon as His Majesty's Government announced that their policy was gradually to establish full responsible government in India, and as soon as they took the first steps towards that end, the situation began fundamentally to change. Many of the most important and vital functions of government in India are vested in the Central Government, and it was not long before two things became quite plain to thinking Burmans. The first was that the Indian legislature would exercise increasing influence over the Government of India in the discharge of those functions until ultimately the Government would become completely

responsible to it, and the second was that from the nature of things Burmans could never hope to have an effective voice in shaping policy in that legislature. The population of Burma is very small compared with that of British India, and Burma representation can never be large in the Indian legislature. Moreover it was not long before the practical disadvantages of the position were brought home to the people of Burma. The fiscal convention transferred a large measure of control over the fiscal policy of British India to the Indian legislature, with the result that the Government of India embarked on their policy of discriminating protection. At once it became evident that the economic interests of Burma did not always coincide with those of India, and that whenever there was a clash, the interests of the smaller country must inevitably give way. The consequence has been that in recent years the demand for separation has become more and more insistent, and it is not too much to say that as far as Burma is concerned, it was the dominant issue before the Statutory Commission. Now that the Commission have reported so strongly in favour of separation, the demand has become more insistent than ever. In fact it has reached a pitch at which it would be impolitic and unwise to resist it. The Commission have gone so far as to say that 'nothing but the most overwhelming considerations would justify the continued retention of Burma within the Government of India,' and they have recorded their deliberate opinion that those overwhelming considerations do not exist. The Government of Burma are entirely in agreement with this view. Their considered opinion is that the Government of India and His Majesty's Government should accept the recommendation that Burma should be separated from India.

3. In the rest of this letter I am to proceed on the assumption that the recommendation will be accepted, and I am to deal with the more important questions which will require consideration in connection with the process of separation.

4. *The Time-Table.*—The first of these questions is that of the time-table. The Commission's actual recommendation is that 'separation should take place now,' but the context shows that their intention was merely that the question of principle should be decided with as little delay as possible. Their objective was that the new Government of Burma Act should come into force simultaneously with

the new Government of India Act, and they pressed for an early decision on the question of principle in order that as much time as possible might be available for all the preliminary work which must be done before separation can become an accomplished fact. It is obvious that this view must be accepted, and that the time-table of the Government of Burma must keep pace with that of the Government of India. The Government of Burma have no means of knowing when the new Government of India Act will come into being, but they are entitled to assume that no avoidable delay will be allowed to occur in giving British India her new constitution. On the other hand, they are impressed by the amount of preliminary work which must be done before the Government of Burma can become independent of the Government of India. A new constitution has to be devised for Burma as well as for India. The difference is that the Statutory Commission have not attempted this task for Burma, and have contented themselves with saying that further enquiry will be necessary before the new constitution can be framed. A settlement has to be arrived at with the Government of India on the difficult financial issues and questions involved in separation. The question of the defence of Burma has to be decided, and a perusal of the long list of subjects classed as Central in the Devolution Rules will give some idea of the number of the functions hitherto discharged by the Government of India which the Government of Burma will now have to take over, and of the amount of work involved in making the necessary preparations. It is obvious that the factor of time is one of great importance, and apart altogether from the political advantage of this course in the present state of feeling in Burma, it would be convenient to the Government of Burma if the Government of India and His Majesty's Government could see their way at once to announce that they accept in principle the recommendation in favour of separation.

5. The Government of Burma however recognize that there may be difficulties in the way of this course, and that the view may be taken that the question of separation, like the other recommendations of the Statutory Commission, must be left open to discussion at the Round Table Conference. If this is the decision, then I am earnestly to request that the Governor-General in Council may be pleased to make two suggestions for the consideration of His Majesty's Government. The first suggestion is that if possible the question of the separation of Burma should be taken

up first at the Conference. It is a simple issue—simple at any rate compared with the other questions which the Conference will discuss—and it should not take much time to come to a decision. Moreover the course suggested, besides being convenient to the Government of Burma, is obviously logical. There are many questions connected with the future constitution of British India and with the relations between the Centre and the Provincial Governments which cannot confidently and permanently be decided unless the problem of Burma is first cleared out of the way. The second suggestion is that if His Majesty's Government on a preliminary examination of the subject before the meeting of the Conference decide provisionally that they are prepared to accept the recommendation in favour of separation, they should at once apply themselves to the questions (1) to what kind of body they propose to entrust the further enquiry into the new constitution of Burma contemplated by the Statutory Commission and (2) what the personnel of this body should be. I am to explain that if His Majesty's Government decide that a Commission or a Committee should be sent out to make this enquiry, the Government of Burma attach the greatest importance to its arriving in Burma not later than the beginning of next January. Otherwise a whole year may be lost, and the time-table for Burma may fall hopelessly behind that of India. If the procedure suggested is adopted, it is hoped that His Majesty's Government may be able to announce their decision on the question of principle early in November next, and that if the principle of separation is accepted, they may be able simultaneously to appoint the Commission of Enquiry.

6. *The Machinery of Enquiry.*—The Government of Burma venture to offer some observations on the two questions mentioned at the end of the last paragraph, since they are questions which have aroused considerable interest in Burma, but they recognise of course that since Parliament cannot divest itself of responsibility for the form of the new constitution of Burma, Parliament must also decide what method of enquiry will be most likely to give it the sort of advice it will require before it can come to confident conclusions on the subject of the new constitution. The choice probably lies between two alternatives. One course would be for Parliament to adopt in the case of Burma the same plan as was adopted in respect of the Indian Constitutional Enquiry. The enquiry would be entrusted to a Parlia-

mentary Commission appointed by Royal Warrant, but the Burma Legislative Council would be invited to appoint a Select Committee chosen from its elected and nominated members to collaborate with the Royal Commission. The other course would be for His Majesty's Government to appoint a Committee in which Burmans (the term being used in its widest sense) would be included. The latter plan is the plan which seems to be most generally favoured in Burma, and on the 11th August 1930 the Burma Legislative Council adopted a motion recommending ' That this Council urges His Majesty's Government to appoint a Royal Commission consisting of an equal number of members of Parliament and of Burmans to frame a constitution in consultation with the people of Burma '. The Government of Burma have no doubt that His Majesty's Government will give due consideration to the view expressed by the Burma Legislative Council. The impulse behind it is the natural feeling that Burmans ought to find a place on a Commission appointed to consider the new constitution of Burma. It must also be observed that the difficulties in the way of adopting the second plan are not nearly so formidable as those which in the case of India led to the rejection of the plan. In Burma the constitutional problem is far simpler than in India, and the problem offered by minority communities is not so complicated. Still this latter problem does exist, and in the judgment of this Government, it constitutes an obstacle to the plan of a mixed Committee. If such a Committee were appointed, minority communities would not be satisfied unless they were represented on it, and it would be necessary to include in the Committee a Karen, an Indian and a non-official European as well as at least four Burmans. The Parliament would no doubt require an equal number of representatives appointed by itself from England, and if this plan were adopted, it would seem impossible that the Committee should consist of less than 14 or 15 members. A Committee of this size appears to the Government of Burma to be much too large and unwieldy. It would be open too to the obvious objection that many of the members of the Committee would already be deeply committed to a particular view, and however open a mind they might desire to keep, would not be able to give really impartial, unprejudiced advice to Parliament. The essential requirements of Parliament, the Government of Burma conceive, are in the first place that all sections of political thought in Burma should be given full opportunity of expressing their views

and pressing their demands; secondly, that a Select Committee of the Burma Legislative Council elected by the Council itself should be placed in the position of hearing the evidence tendered and on the basis of that evidence of advising what measure of constitutional advance is thought desirable in Burma and what checks and safeguards, if any, should be imposed; and finally that a body of quite impartial persons responsible to Parliament itself should sift the evidence placed before it, and after giving due consideration to the views expressed by the Select Committee of the Legislative Council should advise Parliament what the new constitution should be. The Government of Burma are driven to the conclusion that this is the most logical and consistent plan, and they believe it to be the only plan which, besides keeping the size of the Commission at a reasonable figure, gives minority communities an adequate share in the enquiry. So far as Burma is concerned this plan has so far worked well. The Burmans have had evidence of the value of a perfectly unprejudiced and impartial Commission, and the verdict of that Commission in favour of separation has been generally welcomed. The Government of Burma are in favour of carrying on the further enquiries that are necessary in Burma on the same lines, but in order that the Burma case may be presented in as complete a manner as is possible they consider that the Select Committee of the Burma Legislative Council should be invited to England to confer with the Joint Select Committee of Parliament to which no doubt the draft Government of Burma Bill will be committed in due course.

7. *The New Constitution.*—The new constitution will be the subject of the enquiry of the body referred to in the preceding paragraph, and the Government of Burma have not yet formulated their views. They are engaged on that task now, and are preparing a memorandum for presentation to the Commission. There is however one point which it is necessary to emphasize at this stage, for the Government of Burma think that reference should be made to it in the terms of reference to the Commission. It is of great importance that it should be made clear beyond all possibility of doubt or question that the separation of Burma will not involve for Burma any departure from the statement contained in the preamble to the Government of India Act, 1919, that the objective of British policy is the progressive realization of responsible government in British India as an integral part of the Empire. As the Commission say, that

statement constitutes a pledge given by the British nation to British India. When the pledge was first announced in August 1917, Burma was a part of British India. The pledge therefore was given to Burma as well as to India, and even if Burma is separated from India, the pledge still stands for Burma unimpaired and in all its force. The Government of Burma could not possibly agree to separation on any other terms, and they trust that His Majesty's Government will see fit to set at rest any doubts that may still exist on the subject by the wording of the terms of reference to the Commission. They attach importance to the point, for the allegation is frequently made in that section of the public press of Burma which is opposed to the recommendation of the Statutory Commission that the British Government will seize the opportunity of separation to reduce Burma to the status of a Crown Colony.

8. It has already been stated that this Government is in agreement with the Commission that due provision should be made in the new constitution of Burma for the protection of legitimate interests of minority communities in Burma, and they also wish to express their acceptance of the first and the fourth of the four major principles laid down by the Commission in Part I of Volume II of their Report. Matters of this kind however can suitably be treated in the Government's memorandum for the Commission of Enquiry, and at this stage there is only one other consideration which it is thought necessary to stress. The problem of Burma differs from that of British India in that the new Government of Burma will combine in itself the functions both of the Central Government and of the Provincial Governments of British India. It will not be possible therefore to apply to Burma exactly the same constitution as may be devised for British India. It should be remembered however that Burmans will compare jealously the form of government proposed for Burma with that accorded both to the Centre and to the Provinces in British India, and the Government of Burma hope that the Commission of Enquiry will find it possible to propose for Burma a measure of constitutional advance not less liberal than that decided on for British India.

9. *Financial Settlement with the Government of India.*—The financial aspect of separation is naturally one of much importance. Mr. (now Sir Walter) Layton made some remarks on the subject in Part VIII of Volume II of the

Commission's report, and though the Government of Burma wish it to be clearly understood that they do not accept the assumptions made by him, they accept his general conclusion that there is no strong financial objection to separation. It is obvious however that separation must raise many complex questions of a financial or semi-financial nature. Some of them may be a subject of controversy between the Government of India and the Government of Burma, as for instance the question what share of British India's unproductive debt should properly be made over to Burma. Other questions may not be so controversial, but it might conceivably be convenient to one of the two countries, while making little difference to the other, that in the first instance at any rate a particular solution out of two or three alternatives should be selected. The future currency system of Burma is a case in point. There are at first sight three possible courses open to Burma. Either she might elect, on terms to be arranged with the Government of India, to retain for some time to come the Government of India's currency, or she might elect for a system analogous to that of Ceylon, or she might elect to cut adrift altogether from the Indian currency system. On the other hand, it might be convenient to the Government of India if for some time longer at any rate the first of these three courses were adopted. The matter is obviously one for discussion and negotiation, and many other questions will similarly require settlement. They relate to such matters as Ways and Means, Savings Banks deposits, Provident Fund deposits, Post Office Cash Certificates, the terms on which the Burma Railways should be made over to the Government of Burma, the taking over by the Government of Burma of lands and buildings belonging to the Government of India and other similar subjects. The important thing at this stage is to settle on a procedure which will be acceptable to both Governments. The Government of Burma have already had the advantage of informal conversations with the Government of India on the subject, and they have reason to believe that the procedure suggested below will be accepted by the Government of India. A list of the more important subjects of the kind requiring settlement has already been drawn up by the Government of India. It is believed that by correspondence and negotiation between the two Governments it will be possible to reach not indeed agreement on all the points at issue but an agreed statement of the case, and it is proposed that this agreed statement of the case (or if even this measure

of agreement cannot be reached, the views of the two Governments) should be laid before a Board of neutral and impartial arbitrators. These arbitrators would be men with expert knowledge of finance whose decision would be accepted as authoritative, and it is proposed that their decision should be final. Representatives of the two Governments would be attached to the Board, not as members but as assessors and advisers. Their function would be to watch and present the case of their respective Governments. It is considered that even though there may be no difference of opinion between the two Governments regarding some of the points at issue, all such points should be referred to the Board for final decision. This appears to be a necessary safeguard for both Governments, for it is advisable that public opinion in both countries should be satisfied that whatever decisions are made are the decisions of an impartial neutral authority.

10. If this procedure is accepted, two further points require consideration. In the first place, the Government of Burma hope that the Board of arbitrators will be able to sit and to submit their report before the end of the next cold weather. Here again the time factor is of great importance. It is essential that both Governments should know as early as possible what the exact financial consequences of separation will be. The Government of Burma attach even greater importance to the next point. As the Government of India are aware, the Finance Department of a Local Government is occupied almost entirely with expenditure questions, and the officers of a Local Government have not as a rule experience and practical knowledge of currency, exchange, and other questions appertaining to the domain of what is usually known as high finance. The Government of Burma at any rate have no officer who can lay claim to experience or knowledge of this kind, and in respect of many of the questions which will come up for negotiation and settlement they have no one who will be able to treat on terms of equality with the experts of the Government of India. They will thus be in a position of great disadvantage. If therefore the Government of India and the Secretary of State for India agree to the procedure suggested in the preceding paragraph of this letter, I am to express the earnest hope of this Government that they may be provided with the assistance of some one who has the sort of expert knowledge referred to above. If the Government of Burma may venture to make the suggestion, Sir Edward Cook,

sometime Secretary to the Government of India in the Finance Department and until recently Financial Adviser to the Government of Siam, has exactly the type of experience required, and the Government of Burma would be very glad if arrangements could be made to secure for them the benefit of his services. The selection of the adviser however must necessarily be left to His Majesty's Secretary of State for India, and the main point I am desired to make is the absolute necessity for an adviser of this kind to assist in the preparation of the case for Burma, and in presenting and arguing that case before the arbitrators. The Government of Burma would agree to any terms the Secretary of State may find necessary to secure the type of man required. If it is agreed that the proposed Board of arbitrators should finish their work before the end of the ensuing cold weather, it is obviously desirable that the financial adviser asked for should be sent out to Burma with the least possible delay, and I am to ask that the Government of India will treat this recommendation as one of particular urgency, and that they will address the Secretary of State on it by telegram before coming to a decision on the other questions raised in this letter. I am to suggest that in view of the urgency of the matter, the action proposed might reasonably be taken by His Majesty's Government without waiting for or prejudice to the final decision on the principle of separation.

11. *The Defence of Burma.*—I am next to deal with the question of defence. It is of course a cardinal question in itself, and it has in addition grave constitutional and financial implications. The military aspect will no doubt be studied closely by the General Staffs in India and at home, and the Government of Burma naturally speak on this side of the problem with great reserve. They propose however to make some remarks on the broader aspects of the matter.

12. In considering the constitutional problem of British India, the Commission were greatly impressed by the formidable nature of the obstacle to the ultimate attainment of the purpose avowed in the declaration of 20th August 1917 offered by the functions and composition of the army in India. Those functions comprise in the first place frontier defence. The land frontier of India exposes her in the North-West to a constant and pressing danger of a magnitude which is quite without parallel in any other part of the Empire, and the Commission came to the conclusion that for a very long time to come it would be impossible-

for the army entrusted with the defence of this frontier to dispense with a considerable proportion (a) of British troops of all arms, (b) of British officers in Indian regiments and (c) of British personnel in the higher command. The other main function of the army in India is the maintenance of internal order, and in view of the bitter communal feuds and sectional commotions which have so frequently disturbed the peace of India in recent years, here again the Commission decided that there was great need for the continued presence in India of British troops. Their supreme value in communal disturbances lies in the fact that their neutrality is universally recognized, and that for that reason in particular they inspire general confidence. As regards the composition of the Indian army, the Commission were impressed by 'the astonishing admixture' in India 'of races of widely different military capacity,' and by the fact that the rank and file of the Indian army is drawn almost entirely from certain martial races. One inference drawn is that the problem of providing the Indian army with a non-British command is one of quite peculiar difficulty. Another is that 'the formation of an Indian national army drawn from India as a whole in which every member will recognize the rest as his comrades, in which Indian officers will lead men who may be of different race and in which public opinion will have general confidence' is also a task of the greatest possible complexity. Consequently the Commission found themselves in a dilemma. On the one hand, the declaration of 20th August 1917 stands in its full implication, and that declaration contemplates the ultimate building up of an entirely Indian army controlled by Ministers responsible to an elected legislature. On the other hand, the Commission are clear equally that for a long time to come there must be a British element in the Indian army, and that as long as that element exists, the army must remain under the control of Parliament and cannot be placed under Ministers responsible to an elected Indian legislature. Their final conclusion was that the obstacle which the composition and functions of the army in India present to the more rapid development of responsible Government might be removed if the defence of India were treated as a matter which should fall within the responsibilities of the Governor-General advised by the Commander-in-Chief as representing the Imperial authority instead of being part of the responsibilities of the Government of India in relation to the Central legislature.

This system, however, has been found to have its drawbacks. In the first place it rests entirely with local Governments whether to undertake the work; and some are reluctant to do so. In 1922 the Government of the United Provinces intimated that they were no longer prepared to undertake any Public Works Department work on behalf of the Central Government except major works and requested that other arrangements should be made for the execution of other work of less importance. On the receipt of this intimation the Government of India transferred all buildings of the Central Government in the United Provinces to the heads of the Central Departments concerned and made arrangements for them to receive the professional advice and assistance, when necessary, of the Delhi Public Works Department. Similar arrangements have also recently been made in the case of the central works in the Punjab where heads of Central Departments have the professional advice and assistance of the Superintending Engineer, Simla Imperial Circle. A second objection to the present system is that the Central Government is virtually without powers of control, and has not always been entirely satisfied with the execution of work done on its behalf by provincial Governments.

On the other hand the maintenance of an establishment to look after buildings of the Central Government scattered over wide areas would inevitably cost more than the present arrangement. The whole question of the arrangements to be made is at present under the consideration of the Government of India.

In the Archæological Department similar arrangements had been entered into with provincial Governments for the conservation of protected monuments. The Department however have, as an experiment, been doing their own conservation work themselves in selected areas, mainly because it does not seem necessary to utilise the services of highly trained engineer officers for the work.

**PROPOSED LEGISLATION TO DEBAR THE COURTS
FROM PREMATURE INTERFERENCE WITH
THE LEGISLATURES.**

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Proposed Legislation to debar the Courts from premature interference with the Legislatures.

Injunction issued by the Calcutta High Court on the President of the Bengal Legislative Council; the Council prorogued, July 1924.

1. On the 24th March 1924, the Bengal Legislative Council adopted a motion by 63 votes to 62 for the total omission of the provision for the Ministers' salaries from the grant for General Administration. The Ministers remained in office without salary under the idea that the Council would be given an opportunity to reconsider its decision at a session of the Council to be held in the following July.

In the list of business for the July session of the Council, dated the 30th June 1924, and circulated to all members of the Council, there was included a motion by the Finance Member of the Government of Bengal for a sum of Rs. 1,71,000 to be granted for expenditure under the head 22—General Administration (Transferred) on account of the salaries of the Ministers. On the 3rd July an application under section 45 of the Specific Relief Act was filed in the Calcutta High Court by a member of the Bengal Legislative Council praying for an order directing the President of the Council to decide upon the admissibility of this motion and to disallow it, or to forbear from putting the motion at the session of the Legislative Council which was to begin on the 7th July. In effect the appli-

cant asked for the issue of a writ in the nature of a writ of mandamus. It was alleged in the petition that the motion could not be presented to the Council because of the provisions of rule 32 of the Bengal Legislative Council Rules; and it was urged both that clause 1 of sub-rule 1 could not apply, because the demand for grants on account of the salaries of Ministers had been rejected *in toto*, and that clause 2 of the same sub-rule could not apply, because the estimate did not relate to expenditure necessary upon some new service not contemplated in the budget. This application was argued before Mr. Justice Ghose on July 4th. Orders dismissing the application were passed on the 7th July, the date fixed for the meeting of the Council. Among other grounds, the Judge's reasons for dismissing the application were that no injury was threatened to the applicant within the meaning of proviso (a) to section 45, and that there had been no demand by the applicant and no denial by the President within the meaning of section 46 of the Specific Relief Act.

In the meantime a suit dealing with the same matter had been filed in the High Court on the 4th July in which two members of the Legislative Council were the plaintiffs and the President and the two Ministers were the defendants; in connection with this suit an application was made for a temporary injunction restraining the President from putting the motion to which reference has been made above and restraining the Ministers from discharging any duties as Ministers or receiving any salary. This application was argued in the High Court on the 7th July, and on the same day Mr. Justice Ghose delivered his orders. He dismissed the application so far as the Ministers were concerned, but issued an injunction against the President, including in that term the Deputy President and panel Chairmen, restraining them from putting the motion in question pending the final determination of the suit. A copy of Mr. Justice Ghose's order is attached as Appendix I to this memorandum. It was held in the order that the Court had full jurisdiction to try the case on the grounds that—

- (a) the suit was of a civil nature, and unless its cognizance were barred, the Court had jurisdiction to try it;
- (b) that the only provision in the Government of India Act which excluded the jurisdiction of the High Court was section 110 which did not apply to the President who was subject to the jurisdiction of the Court;
- (c) that rule 32 of the Bengal Legislative Rules was exhaustive, and did not permit the presentation to the Council of a demand for salaries for the Ministers which had been rejected in the previous session;
- (d) that the President is required to conduct the business of the Council in accordance with the rules, and was therefore not competent to allow facilities for a motion which the Court held to be contrary to the rules;

(e) that the word "final" in rule 15 of the Bengal Legislative Rules relating to the decision by the President of points of order does not exclude the jurisdiction of the Courts, nor does it conclude the matter; it refers merely to decisions within the Council;

(f) that as tax-payers the plaintiffs possessed sufficient interest to give them the right to sue for relief.

The Court held that the relief asked for was in the nature of what in England would be described as a *Quia Timet Bill* for which there are two necessary ingredients; if no actual damage is proved, there must be proof of imminent danger, and there must also be proof that the apprehended damage, if it comes, will be substantial and irreparable. The Court had no doubt of the imminence of the danger, and no doubt that if the motion were allowed to be put and were adopted by the Council, the damage which would ensue would be substantial and irreparable.

When the Council met on the 7th July immediately after the issue of its order by the Court, the President announced the prorogation of the session by His Excellency the Governor.

Amendment
of the Indian
Legislative
Rules and
of the Rules
of the
Provincial
Councils
approved
by the
Secretary of
State; the
suit against
the
President
withdrawn.

2. An appeal was at once filed against the injunction granted by Mr. Justice Ghose, and in the meantime the Government of Bengal consulted the Government of India as to the course which they should adopt. It was decided that it would be desirable *ex-majore cautela* to make an immediate amendment of the Legislative Rules. The sanction of the Secretary of State was obtained by telegram, and a Gazette Extraordinary was published on the 21st July, amending both the Indian Legislative Rules and the Legislative Council Rules of the several provinces by notifications dated the 19th July 1924 which are reproduced in Appendix II to this note. When the appeal came up for hearing in the Calcutta High Court, agreement was reached by the Counsel who were appearing for the respective parties that the discussion of the various matters which had been raised and which would be raised in the hearing of the appeal had become academic, with the exception of the question whether the Judge sitting on the original side had jurisdiction to grant the interlocutory injunction. It was agreed that the suit should be withdrawn, a statement being made by the Advocate-General that in view of the announcement in the Gazette of India Extraordinary he did not think it reasonable to ask the Court to proceed with the hearing of the President's appeal; at the same time he desired it to be understood that he was prepared to proceed with the appeal and argued points which were raised in it, and that he did not abandon any of the contentions which had been set up on behalf of the President. After protecting his position in that way, the Advocate-General made it clear that he did not think it reasonable that the time of the Court should be occupied in hearing the appeal. The result, therefore, was that the suit was withdrawn and that the appeal of the President and the

other appeals and applications were dismissed by order of the High Court dated the 22nd July 1924.

3. The Reforms Enquiry Committee assembled in the first week of August 1924, and submitted its report in December 1924. In paragraph 91 of its report it discussed the powers, privileges and immunities of members of the legislatures, and in the course of its examination of those matters observed that:—

Recom-
mendation
No. 4 of
the Reforms
Enquiry
Committee.

“.....It is common knowledge that recently one of the High Courts was moved to intervene and did in fact intervene for the purpose of preventing a President from putting a certain motion to the council. An appeal for the purpose of deciding whether the Court had jurisdiction to issue an injunction on the President was disposed of on other grounds, and unfortunately the question is still unsettled, except in so far as it has been answered in the affirmative by a single judge. We have no hesitation in recommending that the matter should be placed beyond doubt, and that legislation should be undertaken either in England or in India barring the Courts from premature interference with the Presidents of the councils. We do not of course suggest that the Courts should be debarred from deciding on the validity of any action already taken in the legislatures.”

This recommendation was approved in chapter X of the Minority Report.

4. The recommendation of the Reforms Enquiry Committee has since been considered by the Government of India in consultation with the Secretary of State, and it has been agreed that the legislatures should be free to perform their own functions in accordance with the Government of India Act, the Rules and the Standing Orders, as interpreted and applied by their own authorities. The President, however, is not the only authority. The Governor-General, Governor and Lieutenant-Governor have also wide powers of selection, arrangement and disallowances of all classes of business. Members of Government have considerable powers; and even ordinary members have powers or rights to promote business and to determine whether such business shall go forward or not. To free a legislature from premature interference by the Courts it is necessary to protect all these powers and rights, in order thereby to avoid any risk of a temporary or permanent injunction preventing, for instance, a member of Government from moving a grant or introducing a Bill, or a private member from moving a resolution or an amendment. The Secretary of State has agreed that under the law as it now stands this object can be best secured by the draft amendments of sections 67, 72D and 78 of the Government of India Act shown in Appendix III to this memorandum. Since, however, the question raised is one of some constitutional importance, it has been decided to reserve it for consideration by the Statutory Commission.

The recom-
mendation
supported
and its
scope
extended by
the Govern-
ment of
India in
agreement
with the
Secretary
of State;
but reserved
for consi-
deration by
the Statutory
Commission.

APPENDIX I.

Order dated the 7th July 1924, passed by the Hon'ble Mr. Justice Ghose in suit No. 1846 of 1924 (Ordinary Original Civil Jurisdiction) of the Calcutta High Court.

SUIT NO. 1846 OF 1924.

IN THE HIGH COURT OF JUDICATURE AT FORT WILLIAM
IN BENGAL.

ORDINARY ORIGINAL CIVIL JURISDICTION.

Before :	Kumar Shankar Roy Chowdhury & Anor.
The Hon'ble MR. JUSTICE GHOSE.	Vs.
<i>The 7th July, 1924.</i>	The Hon'ble Mr. H. E. A. Cotton & Ors.

The Court.—This is an application on behalf of the plaintiffs for an order that the first defendant, the Honourable Mr. Cotton, who is the President of the Bengal Legislative Council, may be restrained from putting a certain Motion, being item no. 6 in the Printed List of Business, before the Bengal Legislative Council at its Session which commences to-day at 3 P.M. and for an order restraining the second and third defendants, the Honourable Mr. Fazl-ul Huq and the Honourable Mr. Ghuznavi, who are the Ministers in charge of the Departments of Education & Agriculture of the Government of Bengal, from discharging any duties as Ministers, or receiving any payment of salary and for such other or further order as to this Court may seem fit and proper.

This application has been brought on immediately after the delivery of my judgment this morning in the matter of the application under section 45 of the Specific Relief Act on the part of Mr. J. M. Sen Gupta, praying for an order on Mr. Cotton directing him to disallow the said motion. For the reasons given by me I dismissed that application. But the questions raised on the present application are of such great importance, raising, as it does, difficult questions of constitutional law and procedure which might be carried to the highest tribunal that it would have been more convenient if I were enabled to deliver a considered and written judgment. I felt that my decision might have the effect of creating a serious constitutional crisis and that in these circumstances there were two courses open to me—(1) that instead of

making an interlocutory order of the description asked for, I should try out the suit in which the present application has been made within 10 days from date, or (2) that this application should be dealt with by me on Wednesday next, it being understood that whichever course was adopted, the President of the Bengal Legislative Council should stay his hands meanwhile. The learned Advocate-General informed me however that arrangements had been made, whatever that might mean, so that the said item no. 6 might be put as the very first item of business before the Legislative Council this afternoon, and that it was impossible to interfere with the order of business as it was one which was sanctioned by His Excellency the Governor of Bengal. I was not satisfied that the order of business could not be altered, and I accordingly desired the learned Advocate-General to ascertain if it was not possible for His Excellency to give the necessary directions in this behalf, assuming that a matter like this was not within the competence of the President. It is now 2-15 p.m., and I have not been informed as yet of the result of the enquiry that I desired to be made. The matter is of very great urgency and I must therefore proceed to judgment.

The facts giving rise to the present application are more or less the same as were raised on the application of Mr. Sen Gupta for a Writ of Mandamus. Those facts will be found set out in the judgment which I delivered this morning and it will therefore not be necessary for me to repeat the same again in this judgment. I desire, therefore; that so far as the facts are concerned, my judgment in the case of Mr. Sen Gupta may be read as part of this judgment. This course is rendered all the more necessary because of the shortness of time at my disposal.

The substantial point that has been argued before me on the present application is whether, having regard to the provisions of section 72D of the Government of India Act and of Rule 94 of the Bengal Legislative Council Rules and Standing Orders, it is competent to the President of the Bengal Legislative Council to put the said item no. 6 before the Bengal Legislative Council at its meeting which takes place this afternoon for the consideration of the members of the Council. Another equally important point which has been the subject of debate before me is that whether on the facts of this case this Court has any jurisdiction to make an order of the description asked for on the President of the Legislative Council. The said item no. 6 runs as follows:—

SUPPLEMENTARY DEMANDS FOR GRANTS.

22.—*General Administration (Transferred).*

The Honourable Mr. J. Donald to move that a sum of Rs. 1,71,000 be granted for expenditure under the head "22—General Administration (Transferred)" on account of salaries of the Ministers.

The first question that I have got to decide is whether this Court has any jurisdiction to interfere in this matter. Now, the clause of the Government of India providing for exemption from the jurisdiction of the High Courts runs as follows:—

“ 110. The Governor-General, each Governor, Lieutenant-Governor and Chief Commissioner and each of the members of the executive council of the Governor-General or of a Governor or Lieutenant-Governor and a Minister appointed under this Act, shall not—

- (a) be subject to the original jurisdiction of any High Court by reason of anything counselled, ordered or done by any of them in his public capacity only; nor
- (b) be liable to be arrested or imprisoned in any suit or proceeding in any High Court acting in the exercise of its original jurisdiction; nor
- (c) be subject to the original criminal jurisdiction of any High Court in respect of any offence not being treason or felony.”

There is no other provision in the Government of India Act or any rules made thereunder excluding the jurisdiction of the High Courts. The learned Advocate-General has contended that Parliament in passing the Government of India Act and in constituting Legislative Councils thereunder, has kept in view the English constitutional principle, namely, that the Legislature is supreme and that neither the judiciary nor the executive should interfere in any way with the conduct of business in the Legislative Councils, and that having regard to the provisions of Rule 15 of the Bengal Legislative Council Rules and Standing Orders, the decision of the President of the Legislative Council on a point of order (and it is argued that the point raised in the present application is a point of order) is final and that it is not open to question in a Court of Justice. I am perfectly aware of the fact that in England the Legislature is supreme, but what I have to consider on the present application is not whether the English Parliament is supreme, but whether the Bengal Legislative Council, which is a subordinate legislature and a creation of Parliament, is supreme in the sense contended for by the learned Advocate-General and whether the jurisdiction of the High Court, so far as the President of the Bengal Legislative Council is concerned, is excluded by statute or judge made law or by implication. If I have no jurisdiction to entertain this suit, it would be obviously improper for me to express any opinion on the merits of the questions, discussed before me, though that discussion was necessary before I could determine the issue as to jurisdiction (*cf.*—*Pritchard v. Mayor, etc. of Bangor*, 13 A. C. 241). In my view, the question now before me does not really relate to the powers of the local Legislature; but if it did I have no doubt that it would have been a legitimate subject of discussion in this Court, and I am prepared to hold that the proceedings of a subordinate Legislature like the local Legislature can be

questioned in this court (see in this connection the observations of Jenkins, C. J. in *Hari v. Secretary of State for India*, I. L. R. 27 Bom. 424 at p. 439). But as I say the substantial question is whether the President of the Council is immune from the jurisdiction of this Court. This Court is a superior Court of Record and *prima facie* no matter is deemed to be beyond the jurisdiction of this Court, unless it is expressly shown to be so. By the word "jurisdiction" is meant the authority which the Court has to decide matters that are litigated before it, or to take cognizance of matters presented in a formal way for its decision.

Now, this is a suit of a civil nature and in the Civil Procedure Code it is provided that the Courts shall have jurisdiction to try all suits of a civil nature, but from this rule are excepted "suits of which cognizance is barred by any enactment". As stated above, there is nothing in the Government of India Act to exclude the jurisdiction of this Court. The President of the Bengal Legislative Council is appointed under the provisions of section 72C of the Government of India Act, the present President being a person appointed by His Excellency the Governor. He is the holder of an office created by statute and nothing has been shown to me during the course of the argument, which can remotely suggest that the President of the Bengal Legislative Council is immune from the jurisdiction of this Court. As was observed by Bailhache J. adopting the statement of the law by the Attorney-General, Sir Richard Webster, if any person, whether an officer of State or a subordinate, has to justify an act alleged to be unlawful by reference to an Act of Parliament or State authority, the legal justification can be enquired into in this Court (see *China Mutual Steam Navigation Co., Ltd. v. Maclay*, 1918, 1 K. B. 33, at p. 41). Therefore, in my opinion, a suit can lie against the President of the Bengal Legislative Council.

The learned Advocate-General referred to the impolicy of interfering with the discretion vested in the President of the Legislative Council. I have nothing whatsoever to do with questions of policy, and as regards interfering with the discretion vested in the Legislative Council, the point raised really begs the whole question.

I now proceed to consider the substantial question raised before me on the construction of the provisions of the Government of India Act referred to above and of Rule 94 of the Bengal Legislative Council Rules and Standing Orders, and I think it will be convenient if, at this stage, I set out the material sections of the Government of India Act. The first section to which I need refer is section 52 of the Act, which runs as follows:—

"52. The Governor of a Governor's province may, by notification, appoint Ministers, not being members of his executive council or other officials, to administer 'transferred' subjects, and any ministers so appointed shall hold office during his pleasure.

There may be paid to any minister so appointed in any province the same salary as is payable to a member of the executive council

in that province, unless a smaller salary is provided by vote of the Legislative Council of the province.

No minister shall hold office for a longer period than six months, unless he is or becomes an elected member of the local legislature."

The next section of the Act to which reference may be made is section 72C which runs as follows:—

" 72C. There shall be a president of a Governor's legislative council, who shall until the expiration of a period of four years from the first meeting of the council as constituted under this Act, be a person appointed by the Governor, and shall thereafter be a member of the Council elected by the Council and approved by the Governor:

Provided that, if at the expiration of such period of four years the council is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the next ensuing session."

Section 72D, upon which the controversy has raged runs as follows:—

" 72D. (1) The provisions contained in this section shall have effect with respect to business and procedure in Governor's legislative councils.

(2) The estimated annual expenditure and revenue of the province shall be laid in the form of a statement before the council in each year, and the proposals of the local government for the appropriation of provincial revenues and other moneys in any year shall be submitted to the vote of the Council in the form of demands for grants. The council may assent, or refuse its assent, to a demand, or may reduce the amount therein referred to either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed:

Provided that—

- (a) the local government shall have power, in relation to any such demand, to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, if the demand relates to a 'reserved' subject, and the Governor certifies that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subject; and
- (b) the Governor shall have power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the province, or for the carrying on of any department; and
- (c) no proposal for the appropriation of any such revenues or other moneys for any purpose shall be made except on the recommendation of the Governor, communicated to the Council."

Now these provisions relating to the business and procedure in Governor's Legislative Councils mark a great advance in the direction of parliamentary methods, particularly in conceding the right to vote "supplies". There is to be an annual statement of estimated expenditure and revenue and the proposals of the local governments for the appropriation of provincial revenues and other moneys in any year are to be submitted to the vote of the Council in the form of demands for grants. The Council may assent or refuse its assent to a demand or may reduce the amount demanded either by a reduction of the whole grant or by the omission or reduction of any of its items. A proposal for appropriation of revenue is not to be made except on the recommendation of the Governor, communicated to the council. The voted "grants" only cover the kind of expenditure which in England is made out of "monies provided by Parliament." It is also provided in section 72D that certain charges of a special or recurring character, which are set out in the section itself, are outside the range of voted "grants." This distinction will be recognized by every student of constitutional history as corresponding roughly to the English distinction between "charges on the votes" and "charges on the Consolidated fund." So far the procedure is based on English practice; but the Executive Government is given exceptional powers of authorizing expenditure in case of need. If a demand relates to a Reserved subject and the Governor certifies that the expenditure is essential to the discharge of his responsibility for the subject, the local government has power in relation to any demand to act as if it has been assented to, notwithstanding the withholding of the assent or the reduction of the amount asked for. The Governor also has power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the province or for the carrying on of any department. The provisions of this very important section are left to be worked out in detail by statutory Rules and Standing Orders. The Standing Orders are to supplement the Rules and must not be inconsistent with them. They are to be made in the first instance by the Governor-in-Council, but may be altered by the local legislative council with the assent of the Governor.

These being the provisions of the Government of India Act, to which it is necessary for me to refer for the purposes of this judgment, I now turn to the Rules and Standing Orders made in virtue of the authority conferred by the Act. Elaborate provisions are made in the Rules and Standing Orders for the conduct of business in the legislative councils.

In Rule 14 the limitations on debate are set out and in Rule 15 it is provided that the President shall decide all points of order, which may arise and that his decision shall be final. It is also provided that any member may at any time submit a point of order for the decision of the President, but in doing so shall confine himself to stating the point.

Rule 21 provides that a list of business for the day shall be prepared by the Secretary and shall be circulated to all members and that no business not included in the list of business for the day shall be transacted at any meeting without the leave of the President.

Rule 37 indicates the procedure to be followed by which motions can be brought forward before the Legislative Council.

Rule 38, which has been so often referred to before me, runs as follows:—

“ Except as otherwise provided in the Rules, the President shall decide on the admissibility of a motion. The President may disallow any motion when in his opinion it does not comply with the Rules or Standing Orders.”

Rule 39, which is also equally important, runs as follows:—

“ A motion must not raise a question substantially identical with one on which the council has given a decision in the same session.”

Rule 70 relates to the moving resolutions and power is given by Rule 71 to His Excellency the Governor to disallow any resolution or any part of a resolution.

Rule 85 runs as follows:—

“ A statement of estimated annual expenditure and revenue of the province (hereinafter referred to as the budget) shall be presented to the council on such day as the Governor may appoint.”

Rule 87 runs as follows:—

“ (1) A separate demand shall ordinarily be made in respect of the grant proposed for each department of the Government, provided that the Finance Member may, in his discretion, include in one demand grants proposed for two or more departments, or make a demand in respect of expenditure, such as Famine relief and Insurance and Interest, which cannot readily be classified under particular departments. Demands affecting reserved and transferred subjects shall, so far as may be possible, be kept distinct.

(2) Each demand shall contain, first, a statement of the total grant proposed, and then a statement of the detailed estimate under each grant, divided into items.

(3) Subject to these rules, the Budget shall be presented in such a form as the Finance Member may consider best fitted for its consideration by the Council.”

The next Rule to which I need refer is Rule 88, which is in these terms:—

“ The Budget shall be dealt with by the Council in two stages, namely:—

- (1) a general discussion; and
- (2) the voting of demands for grants.”

Rule 89 is in these terms:—

“(1) On a day to be appointed by the Governor subsequent to the day on which the Budget is presented and for such time as the Governor may allot for this purpose, the Council shall be at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion shall be moved at this stage, nor shall the Budget be submitted to the vote of the Council.

(2) The Finance Member shall have a general right of reply at the end of the discussion.

(3) The President may, if he thinks fit, prescribe a time-limit for speeches.”

Rule 90 runs in these terms:—

“Not more than twelve days shall be allotted by the Government for the discussion of the demands of the local Government for grants.

(2) Of the days so allotted, not more than two days shall be allotted by the Governor to the discussion of any one demand. As soon as the maximum limit of time for discussion is reached, the President shall forthwith put every question necessary to dispose of the demand under discussion.

(3) On the last day of the allotted days at 5 o'clock the President shall forthwith put every question necessary to dispose of all the outstanding matters in connection with the demands for grants.”

The next Rule which I need refer to is Rule 91 which runs as follows:—

“No motion for appropriation can be made except on the recommendation of the Governor communicated to the Council.

(2) Motions may be moved at this stage to omit or reduce any grant or any item in a grant, but not to increase or alter the destination of a grant.

(3) When several motions relating to the same demand are offered, they shall be discussed in the order in which the heads to which they relate appear in the Budget.

(4) No motions shall be made for the reduction of a grant as a whole until all motions for the omission or reduction of definite items within that grant have been discussed.”

Rule 92 runs as follows:—

“If the local Government or the Governor exercises the power conferred by section 72D (2), provisos (a) and (b), of the Government of India Act in regard to demands refused or reduced by the Council, the Finance Member shall, as soon as may be thereafter, lay on the table of the Council a statement showing the action under section 72D (2), proviso (a), with a copy of the certificate granted by the Governor, but no motion may be made in regard to that action.”

Rule 93 runs as follows:—

“ When money has been spent on any service for which the vote of Council is necessary during any financial year in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Council by the Finance Member, and shall be dealt with in the same way by the Council as if it were a demand for a grant.”

Rule 94 is in these terms:—

“(1) An estimate shall be presented to the Council for a supplementary or additional grant when—

- (i) the amount voted in the budget of a grant is found to be insufficient for the purposes of the current year; or
- (ii) a need arises during the current year for expenditure for which the vote of Council is necessary upon some new service not contemplated in the budget for that year.

(2) Supplementary or additional estimates shall be dealt with in the same way by the Council as if they were demands for grants.”

The real controversy has raged round the provisions of Rule 94, which I have just set out, taken along with the provisions of section 72D of the Government of India Act. It is contended, having regard to the facts which are set out in my judgment in the matter of the application of Mr. Sen Gupta, that it is not competent to Mr. Cotton to include in the agenda the motion which stands in the name of the Hon'ble Mr. Donald. The argument is put in this way. It is contended that before the financial year commences, a statement of the estimated annual expenditure and revenue of the province has got to be placed before the Legislative Council, that is to say one statement of the estimated annual revenue and expenditure, commonly called the “ Budget ” has got to be placed before the Legislative Council. The provisions in the Budget relating to the appropriation of revenues and other moneys must be submitted to the vote of the Council in the form of demands for grants. A particular demand for the grant of salaries of the ministers having been once rejected by the Legislative Council at its meeting held on the 24th March, 1924, it is argued that it is not now competent to the Government to put forward a fresh demand for the grant of salaries to ministers, unless that demand can be brought within the four corners of Rule 94 of the Bengal Legislative Council Rules and Standing Orders. It is also pointed out that having regard to the plain and unequivocal language of Rule 94, the supplementary demand for grant of salaries to Ministers, in respect of which Mr. Cotton has admitted Mr. Donald's motion, can never be included within the category of demands referred to in Rule 94 and that this Court, therefore, has undoubted jurisdiction to prevent the President of the Bengal Legislative Council from allowing such a demand to be put before the Council.

I have already indicated that in addition to Mr. Cotton there are two other defendants in this suit, namely the two ministers.

As regards the ministers, I desire to say at once that I am not satisfied on the grounds which have been urged before me that so far as this application is concerned, there is any reason for asking for any order against the ministers at this stage. I must, therefore, dismiss the present application, so far as the ministers are concerned.

On behalf of the Hon'ble Mr. Cotton I have heard an elaborate address by the learned Advocate-General and he has submitted the following propositions for my consideration:—

- (a) That in disposing of the present application against Mr. Cotton I should follow the same principles as were followed by me in the application for the writ of mandamus.
- (b) That the present plaintiffs have not been able to satisfy the Court that they have made any demand whatsoever on Mr. Cotton and that Mr. Cotton has distinctly determined to refuse the demand of the plaintiffs.
- (c) That the plaintiffs have failed to satisfy the court that they have any interest whatsoever in this matter which is likely to be injured by Mr. Cotton putting Mr. Donald's motion before the Bengal Legislative Council this afternoon.
- (d) That the President of the Bengal Legislative Council has under the rules complete discretion in the matter and that having regard to the provisions made in the Rules and Standing Orders for points of order being raised by members of the Council and having regard to the express provisions of Rule 15, this court will not interfere with the President in the discharge of his duties.
- (e) That there is nothing whatsoever in the Government of India Act or in the Legislative Council Rules and Standing Orders to prevent a motion for appropriation of provincial revenues for a particular object being made at any time before the Legislative Council, provided it is in compliance with the provisions of Rule 39.

The learned Advocate-General in concluding his observations pointedly drew my attention to section 52 of the Government of India Act and contended that having regard to the events that had happened, namely, the total refusal of the salaries of the Ministers at the meeting of the Bengal Legislative Council held on the 24th March, it was competent to His Excellency the Governor to direct that there should be paid to the Ministers whose salaries had been refused by the Legislative Council, the same salaries as were payable to the members of His Excellency's Executive Council and that it was not really necessary to bring forward again any demand for grant of salaries to the Ministers and that if His Excellency has given directions for a motion for appropriation of revenues to be brought forward in the manner indicated in item 6 in the agenda, it was because His Excellency desired to show very cour-

tesy to the members of the Bengal Legislative Council and because as a constitutional ruler he was anxious to give the members of the Legislative Council a further opportunity to consider the matter.

With reference to these last observations of the learned Advocate-General, I desire to say at once that the question he has indicated is not before the Court at the present moment, and I refuse to pronounce any opinion on the legality or otherwise of the action which may be taken to pay to the Ministers whose salaries had been refused by the Legislative Council the same salaries as are payable to the members of His Excellency's Executive Council. It is not my province, nor is it my remotest desire, sitting here in this Court, to refer to any action that has been taken or that may be taken by His Excellency the Governor of Bengal. I am not concerned with any discussion about His Excellency's acts, and I must enter my protest against any reference being made in my Court to the same.

I now proceed to consider Mr. Advocate-General's arguments, and in considering them I shall first take up for discussion his argument under head (c). I am wholly unable to accede to the learned Advocate-General's argument that a proposal for appropriation of provincial revenues can be made at any time before the Legislative Council. The principle underlying section 72D of the Government of India Act is, as I understand, as follows:—

A figure in an estimate once passed by the Legislative Council cannot be altered, except as provided by the statutory rules. If therefore Government subsequently find that any item has been inadvertently omitted from the demand for grants, or that demands which could not be foreseen at the time of presenting the Budget have since arisen, or that the provision made for any item is likely to prove insufficient, the same formality has to be gone through as in the case of the original demands and Government has to make a fresh demand known as a supplementary or additional demand and submit a fresh estimate to the Legislative Council. That such should be the case is only natural, considering the fact that the original estimates are framed from 6 to 18 months in advance of the actual occurrence of the facts and the nature of the charges for which provision has to be made is so vast and varied. As Colonel Durell points out in his book on Parliamentary Grants, Chapter 1, p. 49—"It is a sound principle, that one, and *only one*, estimate of national expenditure should be laid before Parliament during each session; for to render parliamentary control effectual, it is necessary that the House of Commons should have the money transactions of the year, presented to it *in one mass and in one account*." Supplementary estimates are always looked upon with particular jealousy by popular legislatures, because they tend to diminish the control of the legislature, and if for large sums, really amounts to a breach of contract between the government and the legislature. (If authority is needed for this statement as a matter of constitutional practice, reference may be made to the speech made by Mr. Austen Chamberlain in the House of Commons in August, 1921,

where he described supplementary estimates as the weak joint in the armour of any government).

The Advocate-General lays very great stress upon the provisions of Rule 39. Now this Rule 39 is taken from the Rules and Standing Orders of the House of Commons and if Mr. Advocate-General's contention was correct, then there would be nothing to prevent a coach and four being driven, to use the words of Lord Justice Bowen, through this Act of Parliament. And in my opinion it is because the framers of the Rules and Standing Orders under the Government of India Act desired to follow with scrupulous care the English Parliamentary practice as regards the Budget Heads of Expenditure and Revenue and the demands for grants or supplies that they did not omit to insert in the said Rules and Orders a provision for Supplementary or additional grant. This provision is to be found in Rule 94 and, therefore, the conclusion is irresistible that save and except what is provided for in section 72D of the Government of India Act and Rule 94 of the Rules and Standing Orders, there cannot be made any demand for grant even if His Excellency the Governor makes a recommendation for appropriation of the provincial revenues on occasions not provided for in the said section and the said Rule. The learned Advocate-General drew my attention to the Report of the Joint Committee of the Houses of Parliament on Mr. Montagu's Bill. My duty sitting here to-day is to construe the provisions of the Act; but since the matter has been raised, I desire to observe that I am very familiar with the whole of the literature on the subject of the Government of India Act including the Report of the Joint Committee and I say that there is no warrant to be found anywhere for the proposition, which has been strenuously maintained by the learned Advocate-General. The authorities on this question of constitutional practice such as Sir Courtenay Ilbert, Sir Erskine May, and Lord Courtney, are all against the view contended for by Mr. Advocate-General, and I do not, therefore, propose to pursue the matter any further.

I now take up for consideration Mr. Advocate-General's contention under head (d). If I am correct in the view which I have taken, namely, that Mr. Donald's motion for a supplementary grant is in the circumstances of the present case entirely opposed to the provisions of the statute (see the provisions of Rule 94 of the Rules and Standing Orders) then it follows that the President of the Council, who is required to conduct the business of the Council in accordance with the provisions of the law in that behalf, is not competent to allow any facilities to Mr. Donald to bring forward such a motion. In other words, Mr. Cotton has no jurisdiction to admit Mr. Donald's motion under the provisions of the Government of India Act and under the provisions of the Rules and Standing Orders. Mr. Advocate-General has strongly relied upon the provisions of Rule 15. Rule 15, in my opinion, does not exclude the jurisdiction of this Court. It is a rule by which the members of the Bengal Legislative Council are bound, and as I read the rule, it means nothing more or less than this, that when the President

has given his decision on a point of Order, his decision is final, so far as the members of the Council are concerned, and that it cannot be questioned by anybody within the Council. If anybody within the Council questions the President's decision on a point of Order, the President's powers are ample and he knows how to enforce his decision. The presence of the word "final" in Rule 15 does not, as I have said above, exclude the jurisdiction of this court, nor does it conclude the matter. It is a word which is to be found in numerous statutes; sometimes it has been held with reference to the context in which it appears that the word "final" means *final* for all purposes, and excludes the jurisdiction of the courts; sometimes it has been held that notwithstanding the existence of the word "final" the jurisdiction of the courts is not excluded. There are numerous decisions on this point, and, if time permitted, I could give illustrations from a long catena of cases decided in this court. Mr. Advocate-General refers to the affidavit which has been put in by Mr. Cotton, and asks me not to interfere with the President in the discharge of his duties. By instinct and training I am opposed to any interference with the President of a legislative body in the discharge of his duties, but it seems to me in this case that Mr. Cotton has had abundant opportunities of deciding on the legality or otherwise of Mr. Donald's motion, and he has not chosen to tell me through the mouth of his Counsel what his decision is. If the matter rested purely on the discretion of the President, it is clear that the court would hesitate to interfere, although in England it has been held that if there is an outrageous exercise of discretion by a public officer, the court will not hesitate to interfere. In my opinion, however, no question of discretion arises in this case: the law is clear; and Mr. Advocate-General has been forced to admit that Mr. Donald's motion is wholly inadmissible under Rule 94 of the Rules and Orders. But Mr. Advocate-General tries to get out of the difficulty by suggesting that Rule 94 requires an "estimate" and that inasmuch as no "estimate," within the meaning of Rule 94, has been presented before the Bengal Legislative Council, Mr. Donald's motion is therefore not hit by Rule 94 of the Rules and Orders. In parenthesis I may observe that Mr. Advocate-General stated that no estimate has been presented under Rule 94, because the "estimate" had been presented on a previous occasion, namely, at the meeting of the Legislative Council held in March last. There is really no substance in this. The "estimate", such as it was, was presented at a different session of the Council; the session which is about to commence to-day is a new session, and this in itself is a sufficient answer. But I do not propose to pause here. Mr. Donald's motion is headed by the framer with an eye to its inclusion under Rule 94, and I cannot allow the consideration of this very important question to be obscured by reference to the want or otherwise of an "estimate". To do so would really amount to juggle with the Act, if I may be allowed to use the expression. I now proceed to discuss Mr. Advocate-General's points under heads (b) and (c). This is a representative suit instituted by the present

plaintiffs. Leave under Order I, Rule 8, C. P. C., has been given to the plaintiffs to sue on behalf of themselves and all others who pay Government revenue or pay taxes. The "interest" which Mr. Sen Gupta in his application failed to show, is in the present plaintiffs and it is sufficient to sustain them to maintain this suit [see in this connection the judgment of Tyabji and Parsons J. J. in the case of *Vaman v. Municipality of Sholapur*, I. L. R., 22 Bom. (644)]. The present plaintiffs have, in my opinion, made a sufficient demand on Mr. Cotton; Mr. Cotton would not be here through his counsel before me if a demand had not been made, and I am satisfied on the contentions raised on behalf of Mr. Cotton that he has refused to comply with the demand. As I have already said in the other judgment, it is not necessary to use the word "refuse" or any equivalent to it; refusal may be inferred from conduct, and on the facts of this case, I think the plaintiffs are not wrong when they say that there has been a refusal on the part of Mr. Cotton. That being so, it is necessary to consider whether the plaintiffs would be injured by Mr. Cotton, putting the motion, being item No. 6 in the Agenda, before the Bengal Legislative Council, at its meeting this afternoon; and secondly, what is the extent of the imminence of danger which will induce the Court to make an order in favour of the present plaintiffs. The present action is what in England would be described as in the nature of a *Quia Timet Bill*. It is a very old head of Equity Jurisdiction and according to Story, it has been traced back to so early a period as the reign of Edward IV. These *Quia Timet Bills* are in the nature of Writs of Prevention, to accomplish the ends of precautionary justice and are ordinarily applied to prevent wrongs or anticipated mischiefs and not merely to redress them when done. There are two necessary ingredients for a *Quia Timet* action. There must, if no actual damage is proved, be proof of imminent danger, and there must also be proved that the apprehended damage will, if it comes, be very substantial and irreparable, *i.e.*, it must be shown that if the damage does occur at any time, it will come in such a way and under such circumstances that it will be impossible for the plaintiff to protect himself against it, if relief is denied to him in a *Quia Timet* action (see in this connection *Fletcher v. Bealey* 28, Ch. D. 688). The power is entirely discretionary; it is a large power and I have ever present in my mind Lord Mansfield's caution that the greater the power, the more cautious must be the exercise of it. Time is pressing and I am unable to develop all the points which are passing through my mind, because Mr. Advocate-General has desired an immediate decision. I must say, however, this that on both heads, the plaintiffs have been able to satisfy me that this is a fit and proper case for the exercise of my discretion. There can be no doubt of the imminence of danger having regard to the conclusions at which I have already arrived. That there will be substantial damage and irreparable, within the meaning of the Rule laid down above, it is impossible to doubt. No doubt there is the possibility of the motion being not accepted, but there is also the possibility of the motion being accepted by the Council.

In these circumstances, when the various considerations are so balanced and when the motion itself is in complete violation of the spirit and letter of the Government of India Act and of the Rules made thereunder, it is my obvious duty to protect the plaintiffs by a temporary order till the suit is heard. In these matters the Court, in the exercise of its discretion, is under an obligation to take large and liberal views, so that the rights of the subject may be preserved and the constitution as laid down by the Government of India Act safeguarded by such means as are in the power of the Court. The right to vote supplies is perhaps the greatest privilege accorded to a legislative body and any infraction of the Rules and Regulations guarding the provision as to the voting of supplies is an "injury" which the plaintiffs in a representative suit are entitled to be protected from. The Advocate-General has reminded me that it is open to the Legislative Council to flout my order. This is a region of controversy into which I will not enter; the occasion has not arisen for me to consider this question; it may never arise; and speaking for myself, it will never arise. Therefore, so far as Mr. Advocate-General's points under heads (b) and (c) are concerned, I am against him, and I am in favour of the plaintiffs.

There now remains for me to consider Mr. Advocate-General's point under head (a), namely, that in disposing of the present application I should follow the same principles as were followed by me in the application for the Writ of Mandamus. I have read and re-read, during the last two days, the case to which Mr. Advocate-General has drawn my attention, namely, the case of the Bank of Bombay *vs.* Suleman, 12 Calcutta Weekly Notes, p. 825. To a certain extent the contention is correct so far as it goes; but I am by no means prepared to say that in disposing of an application for an injunction, my powers sitting here on this side of the court are wholly circumscribed by the rules laid down in section 45 of the Specific Relief Act. I have given to this matter my very best and most anxious consideration within the time at my disposal, and I have come to the conclusion that the plaintiffs having made out a *prima facie* case I really have no other alternative but to make an order restraining Mr. Cotton, the President of the Bengal Legislative Council, within which expression are included the persons mentioned in page 238 of the Bengal Legislative Council Rules and Standing Orders, from putting the said item No. 6 before the Council for its consideration, until the final determination of this suit. The costs of this application, so far as Mr. Cotton is concerned, will be costs in the cause. So far as the Ministers are concerned, the application will stand dismissed with costs.

I have now discharged my duties as Judge; but perhaps in view of the public importance of this case, I may venture on one observation; I do not disguise from myself that it is a serious thing to have to interfere with the President in the discharge of his duties. But the law, as I conceive it to be, requires my interference. In my opinion, the Rules and Standing Orders require revision, in the light of the events which have happened. I ex-

press no opinion on the political situation brought about in March last, but I only desire to express the hope that the constitution will be placed on a firm and enduring foundation.

C. C. GHOSE.

APPENDIX II.

NOTIFICATIONS NOS. F.-76-I-24-A. AND F.-76-I-24-A. C., DATED THE 19TH JULY 1924, AMENDING RULE 50 OF THE INDIAN LEGISLATIVE RULES AND RULE 32 OF THE LEGISLATIVE COUNCIL RULES OF GOVERNORS' PROVINCES.

NOTIFICATION FROM THE LEGISLATIVE DEPARTMENT, NO. F.-76-I-24-A., DATED THE 19TH JULY 1924.

In exercise of the powers conferred by sub-section (1) of section 67, read with sub-section (1) of section 129-A. of the Government of India Act, the Governor-General in Council, with the sanction of the Secretary of State in Council, is pleased to direct that the following further amendments shall be made in the Indian Legislative Rules, namely:—

In Rule 50 of the said rules—

(a) After sub-rule (1) the following sub-rule shall be inserted, namely:—

“(2) An estimate may be presented to the Assembly for an additional or supplementary grant, in respect of any demand to which the Assembly has previously refused its assent, or the amount of which the Assembly has reduced.”

(b) Sub-rule (2) shall be renumbered (3).

NOTIFICATION FROM THE LEGISLATIVE DEPARTMENT, NO. F.-76-I-24-A. C., DATED THE 19TH JULY 1924.

In exercise of the powers conferred by sub-section (5) of section 72-D., read with sub-section (1) of section 12-A. of the Government of India Act, the Governor-General in Council, with the sanction of the Secretary of State in Council, is pleased to direct that the following further amendments shall be made in the Madras, Bombay, Bengal, United Provinces, Punjab, Burma, Bihar and Orissa, Central Provinces, and Assam Legislative Council Rules, namely:—

In rule 32 of the said rules—

(a) After sub-rule (1) the following sub-rule shall be inserted, namely:—

“(2) An estimate may be presented to the Council for an additional or supplementary grant in respect of any

demand to which the Council has previously refused its assent, or the amount of which the Council has reduced either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed."

(b) Sub-rule (2) shall be renumbered (3).

APPENDIX III.

DRAFT AMENDMENTS OF SECTIONS 67, 72-D. AND 78 OF THE GOVERNMENT OF INDIA ACT, 1919.

Proposed new sub-section (8) to section 67 of the Government of India Act.

"(8) Notwithstanding anything contained in any law for the time being in force, no person in whom powers are vested by or under this Act for the regulation of the course of business or for the preservation of order in either chamber of the Indian legislature, or for the conduct of business, the determination of the procedure to be followed or, generally, for the determination of any question relating to the selection, arrangement or performance of business therein,

and no member of either of the said chambers, acting in the exercise of any rights conferred upon him by or under this Act and relating to the business of the said chambers,

shall be subject to the jurisdiction of any court in respect of the exercise of such powers or rights."

Proposed new sub-section (8) to section 72-D of the Government of India Act.

"(8) Notwithstanding anything contained in any law for the time being in force, no person in whom powers are vested by or under this Act for the regulation of the course of business or for the preservation of order in a governor's legislative council or for the conduct of business, the determination of the procedure to be followed or, generally, for the determination of any question relating to the selection, arrangement or performance of business therein,

and no member of such council, acting in the exercise of any rights conferred upon him by or under this Act and relating to the business of the said council,

shall be subject to the jurisdiction of any court in respect of the exercise of such powers or rights."

Proposed new sub-section (5) to section 78 of the Government of India Act.

“(5) Notwithstanding anything contained in any law for the time being in force, no person in whom powers are vested by or under this Act for the determination of any question relating to the selection, arrangement or performance of business in the legislative council of a lieutenant-governor or a chief commissioner,

and no member of such council, acting in the exercise of any rights conferred upon him by or under this Act and relating to the business of the said council,

shall be subject to the jurisdiction of any court in respect of the exercise of such powers or rights.”

THE SYSTEM OF ADMINISTRATION IN THE
NORTH-WEST FRONTIER PROVINCE.

The System of Administration in the North-West Frontier Province.

Constitution
of the North-
West Frontier
Province.

The North-West Frontier Province was constituted with effect from the 9th November, 1901, by the Government of India, Home Department, Proclamation No. 5780 of the 25th October 1901. By that proclamation His Excellency the Viceroy and Governor General in Council took the five districts of Peshawar, Kohat, Hazara, Bannu and Dera Ismail Khan under his immediate authority and management and entrusted their administration to a Chief Commissioner. The Chief Commissioner is also the Agent to the Governor General for those areas which, lying between the five administered districts and the border of Afghanistan and forming part of India, are nevertheless not part of British India. It is, however, only the five districts lying within British India which technically constitute the Frontier Province and with which this note deals.

Legislative
Arrange-
ments.

2. Prior to the 9th day of November, 1901, these districts formed part of the Punjab and had, therefore, the advantage of such constitutional institutions as then existed there. In that Province a Legislative Council had been set up in the year 1897 but it was a purely nominated body, and neither the districts now comprising the North-West Frontier Province nor the rest of the Punjab enjoyed privileges of representation by election. The nominated members of the Legislative Council were in practice not drawn from the area now the North-West Frontier Province. Even within the Punjab these districts in the matter of legislation stood in a peculiar position. They were scheduled districts for the purposes of Act XIV of 1874, and the local Government was, therefore, competent to declare with the previous sanction of the Governor General in Council, what enactments were actually in force or not in force within them and to extend to them with suitable modifications or without modification any enactments in force in any part of British India. In addition they were territories to which Statute 33 Vic. Chapter III Section I applied, and were therefore territories for which the Governor General in Council might legislate by regulation. They were not, however, deregulationised tracts, that is to say, they were not territories which are by special enactments excluded in whole or in part from the operation of the general statute law. The effect of the separation of the province in 1901 on its position as regards legislation, therefore, was and remains that for the general statute law the Province looks to the Central Legislature but that laws of special application to the province are provided by regulations made by the Governor General in Council or by the extension, with suitable modifications, of enactments in force elsewhere by the local Government under section 5 of the Scheduled Districts Act. The practice has been to legislate for the province by regulation in the manner described in section 71 of the Government of India Act. The North-West

and the Chief Commissioner to which the term "settlement" was loosely applied. In a sort of *pro forma* account the whole of the revenues collected in the province with a few very minor exceptions were credited to what were called "special" revenues, while half the expenditure incurred was debited to "special". Owing to the heavy cost of administration, more particularly in the non-settled area, half the expenditure proved greater than the whole of the revenues. In consequence in this *pro forma* account the Government of India made up the difference by a so-called "assignment". The object of this arrangement was administrative convenience in giving the Chief Commissioner slightly more latitude in matters of expenditure than would otherwise be the case, for the Chief Commissioner was free to meet one half of his expenditure from the balances at the credit of "special" revenues in the account. Expenditure, however, grew to such an extent that the account showed no balances at all. The arrangement, therefore, became a dead letter. But the essential position remained unaltered. All expenditure was just as much an item of central expenditure as, for example, expenditure on the Government of India's own Secretariat establishments, and the revenues collected were for every practical purpose just as much central revenues as customs collected at Bombay. In the accounts no effort was made to discriminate items of revenue and expenditure according as they were credits or debits to the administration of the North-West Frontier Province proper or to that of the unsettled tracts. The budget, therefore, did not show separately the financial position of the five districts.

The Chief Commissioner's powers of sanctioning expenditure are those of a minor local Government. Annual supply for the North-West Frontier Province is subject to the vote of Legislative Assembly precisely in the same manner as the other requirements of the Government of India.

5. The Reforms of 1909 and of 1919 left the constitutional position practically unaltered. On the former occasion the creation of a council for the North-West Frontier Province was not proposed, and no representation on the Imperial Legislative Council whether by election or nomination was given to the province. The power of nomination vested in the Governor General was not in practice used to bring representatives of the province into the Imperial Legislative Council. On the latter occasion it was definitely decided (Report on Indian Constitutional Reforms, paragraph 198) that the province must remain entirely in the hands of the Government of India. No representation on the Indian Legislature was assigned to it by rules but in practice the province has been represented in the Legislative Assembly since September 1921 and in the Council of State since January 1922. The authors of the report, however, charged the Government of India with the task of considering whether in the North-West Frontier Province, as in similar areas, measures should be taken to associate with the administration of the Chief Commissioner some form of advisory council, adjusted in composition and function to local conditions.

The Government of India early set themselves to this task. Problems of great difficulty soon emerged. At the very outset the question arose whether an Advisory Council would be concerned with such matters as our relations with the tribes. Was the scope of the council to embrace the whole of the Chief Commissioner's charge or only the settled districts? Then came questions regarding the suitability of election or nomination as methods of constituting the council and questions regarding the functions of the new body. Finally it became clear that a complete recasting of the financial relations of the Central Government with the province might be necessitated. An Officer was placed on special duty to distribute between the settled districts and the tribal area the revenue and expenditure of the North-West Frontier Province for the preceding quinquennium. This work preliminary to a financial settlement with the province was completed but no settlement has yet been made.

6. Meanwhile it had become clear that certain sections of public opinion were moving on lines other than those suggested by the authors of the Joint Report. Critics had other points of attack than the lack of consultation with representatives of the people. Reformers at a later stage came to demand much more than an Advisory Council. On 21st September 1921 a resolution was moved in the Legislative Assembly demanding that the judicial administration of the North-West Frontier Province should be transferred to the High Court of the Punjab and that a committee should be appointed to consider the effects of separation from the Punjab and the expediency of re-amalgamation. The motion (which was adopted without a division) did not allude either to an Advisory Council or to a Legislative Council. The enquiries, however, which Government had undertaken in consequence of the suggestion of an Advisory Council had led them to consider the possibility of finding some form of constitution suitable to the case of the five districts. Accordingly in dealing with the resolution passed in the Legislative Assembly Government took action on a wider view than that suggested by the mover. On 11th February 1922 in reply to interpellation made by him they informed the Assembly of their decision to appoint a Committee, including non-official members of the Legislature, to consider the questions referred to in the resolution as well as the other proposals already before Government. They referred particularly to the establishment of a Legislative Council for the administered districts. This was the first public reference made to the possibility of such a council. In April 1922 a committee was appointed (Resolution No. 443-34-Fr., dated the 24th April 1922) with directions to report to the Government of India—

Suggestions regarding re-amalgamation with the Punjab, or the constitution of a Legislative Council.

- (i) whether it is expedient to separate the administration of the five administered districts of the North-West Frontier Province from the political control of the adjoining unadministered tracts;
- (ii) whether, if such separation is expedient, it is expedient to re-amalgamate the five districts with the Punjab;

- (iii) whether, if such separation is not expedient, it is expedient (a) to retain the whole province directly under the Government of India, and if so, (b) to constitute a Legislative Council for the five administered districts;
- (iv) whether, if the retention of the province under the Government of India is expedient, it is expedient to transfer the control of the judicial administration to the High Court of the Punjab, and if not, what measures are recommended for the improvement of the existing judicial system; and
- (v) the approximate financial effect of any proposals recommended.

The Committee made their report, to which two minutes of dissent by the only Hindus on the Committee were attached, in October 1922. The report is made an appendix to this note. The majority composed of the European and Muslim members of the Committee reported against re-amalgamation of the five districts with the Punjab, but recommended that no time should be lost in the creation of a Legislative Council with an elective majority and an executive comprising one member of council and one minister. They also advocated certain administrative reforms, notably the raising of the Court of the Judicial Commissioner to a Bench of two Judicial Commissioners, improvement as regards services, amendment of Frontier regulations, the introduction of the elective system into local self-governing bodies, and the grant of greater facilities for carrying arms.

One of the two dissenting Hindu members recommended that the administered districts and so much of the trans-border area as is now under the political control of the Deputy Commissioner of each district should be separated from the trans-border tracts under the political control of the Political Agents, and that the area so separated should be amalgamated with the Punjab Province. If separation of this nature could not be effected, he thought that the whole Province should remain directly under the Government of India, and that in place of the establishment of a provincial Legislative Council the province should be given fuller representation in the Central Legislature. In event of non-separation he proposed to transfer the control of the judicial administration to the High Court of the Punjab and to make certain improvements in the laws and regulations in force in the Province. The recommendations of the second dissenting member were to the same effect, but in the event of separation being found inexpedient he thought the administrative control of the province should be exercised by the Home Department of the Government of India and that only political and foreign relations should be retained under the control of the Foreign and Political Department.

7. The Government of India in due course reached decisions on those matters referred to the Enquiry Committee which arose out of the Resolution of 1921. They decided against re-amalgamation of the North-West Frontier Province with the Punjab and they

took steps which ended in the promulgation of Regulation IV of 1926 and reformed the judicial arrangements by the appointment from the Bar of an additional Judicial Commissioner to form, with the existing Judicial Commissioner, a Bench of two judges. Regulation III of 1923 was enacted to withdraw power formerly vested in Appellate Courts of enhancement of sentences on appeal. Rules regarding legal practitioners were amended so as to remove restrictions on the Bar. The practice regarding the use of political lock-ups was amended to conform to the strict letter of section 21 of the Frontier Crimes Regulation. Village levies were organized in the districts of Kohat, Bannu and Dera Ismail Khan, and Government rifles were issued more freely to villagers close to the border for village defence, no licenses being required. No action has yet been taken to introduce a system of election to local self-governing bodies. Nomination by Government is the universal practice.

It was, however, the question of a Legislative Council which Government themselves had raised on which no immediate decision could be reached. The constitutional change suitable to the conditions of the Province were still under the consideration of Government when on the 16th February 1925, a resolution was moved in the Council of State recommending that effect be given at an early date to the recommendations of the Enquiry Committee. The resolution was withdrawn after the action and the attitude of Government had been explained. But later on the 16th February 1926, a resolution was moved in the Legislative Assembly recommending that the provisions of the Government of India Act which relate to Legislative Councils and the appointment of Ministers, etc., with protection to minorities should be extended to the North-West Frontier Province. The tabling of this resolution caused much discussions in the various parties for it was feared that a debate on it would result—as a debate on a similar resolution had resulted previously in the Punjab—in a Hindu-Moslem split, the Hindus voting solidly against Reforms and the Muslims solidly in favour of them. The actual initiation of the debate coincided—according to some it was not wholly coincidence—with the walk out of the Swaraj Party, with the exception of some of its Muslim members. And the debate which ensued was illuminative of the divisions of opinion and thought in the matter. It gave the Home Member an opportunity to state the position of Government. He did so in the following words:—

“ Now, the House is aware that Government have definitely turned down the question of the amalgamation of the North-West Frontier Province with the Punjab. That itself is a position that has very definite implications which I trust will not be missed by this House. The North-West Frontier Province is to remain a separate province and therefore it must move in due time and in its own way, subject to its own conditions, to its status as a complete province. The question what and in what direction constitutional advance can be given in the North-West Frontier Province has been and is under the

consideration of the Government. No definite decision on that point has been arrived at and no definite decision on that point will be arrived at or announced till Government are satisfied that they have come to a right conclusion and that the moment for its announcement is ripe. Therefore, the attitude of the Government towards this resolution must be one obviously of neutrality."

In spite of the diversity of opinion in the House the motion was adopted without a division.

Arguments
which have
been used in
support of or
against
advance.

8. The arguments in favour of the grant of a generous measure of political power are stated in full in the debates to which reference has been made and in the report of the Enquiry Committee, particularly in its 38th paragraph. The most cogent are the services which the province renders to the whole of India, the soreness of the people of the districts at their exclusion from the reforms, their political aspirations, and their high intelligence and capacity to manage their own affairs. On the other hand the Hindu members of the Committee who wrote minutes of dissent saw insuperable objections to the introduction of responsible Government in a province dependent on central revenues and to a form of dyarchy in which direct administration by the Government of India would synchronize with the establishment of a strong local Government. These arguments were elaborated by one of them (Diwan Bahadur T. Rangachariar) in the course of the debate in the Assembly.

The proposal then under discussion was a proposal for a full-fledged dyarchical constitution similar to the constitutions granted to the most advanced provinces. Against a proposal of that nature it has been argued that dyarchy, which involves the responsibility of a Ministry to a legislature based on a broad electorate, presumes a franchise which does not exist and cannot seemingly at present be created in the North-West Frontier Province, seeing that none of the local bodies are as yet constituted by election. Dyarchy is an advanced form of constitution which never has been and cannot safely be introduced in a province with no constitutional history whatever. It has occasioned or at least stimulated in other provinces dissensions which have peculiar dangers in the North-West Frontier Province. Its introduction there would cause apprehension in other parts of India and is not, so it has been contended, a genuine popular demand in the province as a whole. It has also been contended that the extent to which matters of internal administration are interlinked with matters affecting the tribes of the non-administered areas makes it doubtful whether an appreciable number of subjects can be selected for transfer and, consequently, for removal from the superintendence, direction and control of the Government of India. Finally the inelasticity of provincial revenues and the financial dependence of the province, whose normal receipts provide little more than half of its normal expenditure, on Central revenues have been advanced as an insuperable obstacle

THE PROVINCE OF DELHI.

The Province of Delhi.

Constitution
of the new
province.

1. The province of Delhi was constituted with effect from the first October 1912, by the orders contained in the Notification No. 911 of the Government of India (Home Department) of the 17th September 1912. The decision to transfer the seat of the Government of India from Calcutta to the ancient capital of Delhi had been announced by His Imperial Majesty at Delhi at the Durbar on the 12th December 1911, and it was a corollary to that decision that the city of Delhi and part of the surrounding country should come under the direct administration of the Government of India. The considerations on which these decisions were taken are explained in the despatches to and from the Secretary of State of 25th August 1911 and 1st November 1911, respectively, which are published documents.* The extent of territory to be included in the new province was determined by the impossibility of excluding old Delhi, whose interests are intertwined with those of the new city, and by the expediency of including a small margin over and above the actual limits of the Imperial capital. The province was, therefore, carved out of the Punjab by the segregation of that portion of the district of Delhi comprising the Tahsil of Delhi and the police station of Mahrauli. Later, in 1915, the province was enlarged by the addition to it of 65 villages of the Meerut district of the United Provinces which adjoin it on the other side of the Jumna river. The transfer was dictated by considerations of health, expansion and other interests attaching to the surroundings of the new Capital. It was also considered desirable and convenient to vest the control of the river channel in a single authority. The result is, according to the Census of 1921, a province covering 593 square miles and including a total population of 488,188.

Administra-
tive and
Judicial
arrange-
ments.

2. The province is administered by a Chief Commissioner under the control of the Government of India in the Home Department. His powers are those of a local Government but the Governor General in Council is by statute given authority to reserve to himself or to delegate to another authority such powers or duties of the local Government under existing enactments as he may specify. Ministerial and lower subordinate establishments are borne on local cadres and are recruited by the Chief Commissioner. There are, however, no local cadres for other services. Generally speaking, all posts are borne on the Punjab cadres, but the posts of Chief Commissioner, Deputy Commissioner, Civil Surgeon and some others are borne on the Imperial establishment. The administration of irrigation remains with the Irrigation Branch of the Public Works Department of the Punjab, and use is made of the technical assistance of the administrative officers of other departments in that province. But the Chief Commissioner discharges the functions of the Inspector-General of Police in the matter of the control

* *Vide* Mukherji, Indian Constitutional Documents, Vol. I, pages 453 *et seq.*

of the police personnel in Delhi and the province is a separate police district. The jurisdiction of the High Court at Lahore remains, and has been extended to the villages received from Meerut which were previously in the jurisdiction of the High Court at Allahabad. The judicial officers presiding over the Courts established in the province are obtained from the Punjab.

3. The position of the province in regard to enactments has been determined by the Delhi Laws Act, 1912 (XIII of 1912), and the Delhi Laws Act, 1915 (VII of 1915). The former Act was passed for the province originally constituted by separation from the Punjab. The latter was necessitated by the inclusion of the Meerut villages. In the original area all existing laws which the tract had received from the Punjab were maintained in their entirety, except in so far as it was necessary to provide for their administration by the new authorities. The Meerut villages, however, had laws of their own which they had received from the United Provinces, and it was therefore necessary to consider how far uniformity of statute law throughout the province could be attained. What the Act of 1915 did was to apply to the new area the laws already in force in the province of Delhi, making, however, reservations relating mainly to land, with the object of avoiding disturbance of local agrarian incidents and conditions. The result is that the portion of the province taken from the Punjab retains the agrarian legislation which it brought with it; the Meerut villages retain the agrarian legislation brought from the United Provinces; in other respects the law is uniform. For the whole province as now constituted the Governor General in Council may legislate by extending to it or any part of it any enactment, restricted and modified as he may think fit, which is in force in any part of British India. In addition, Acts passed by the Indian Legislature, which are expressed to extend to British India, extend to the province of Delhi; and the Indian Legislature is of course possessed of power, which it has exercised in the two cases mentioned below, of enacting legislation specifically applicable to the province of Delhi alone. The province therefore looks for its legislation to the Indian Legislature or to the Governor General in Council. The two enactments of the Indian Legislature specifically applicable to Delhi are the Delhi University Act of 1922 and the Delhi Joint Water Board Act of 1926. The former was intended to provide for a local university on the model recommended in the case of Dacca by the Calcutta University Commission. The latter Act gave legal powers to a Joint Board for supplying water in bulk for domestic purposes to the several municipal bodies which administer the urban area of Delhi.

Legislative
arrange-
ments.

4. No financial settlement with the province has been made. Expenditure on the construction of the New Capital, which is not a provincial concern, is administered by the New Capital Committee. The annual estimates of the provincial administration form part of the central budget. Provision for standing charges, fluctuating charges and fresh expenditure is made in the same manner as for departments of the Government of India. The Chief Com-

Financial
Arrange-
ments.

missioner's powers of expenditure are those of a minor local Government. The Delhi accounts are swollen by large figures of receipts and charges which are either directly or indirectly central. A clear view of the sufficiency or insufficiency of provincial revenues to cover provincial expenditure could be obtained only after detailed scrutiny of the accounts and discrimination of the items which may justly be considered provincial. It seems probable, however, that the presence of the headquarters of the Imperial Government involves a scale of expenditure for which provincial revenues alone would be inadequate, and that these revenues are not sufficiently elastic to permit of the development which is desirable.

The Reforms
of 1919.

5. An immediate effect of the constitution of the province was to deprive it of the representation which it enjoyed in the Legislative Council of the Punjab. To that Council Delhi had contributed two out of fourteen non-official members. The Chief Commissioner, however, remained *ex-officio* a member of the Imperial Legislative Council. It was partly on account of this loss of representation and partly on account of the importance of Delhi that in 1919 the Joint Select Committee decided to add one seat in the Legislative Assembly to be filled by an elected representative of the province. No representation on the Council of State was given but in practice the Chief Commissioner is invariably nominated as a member of that Chamber. For the Legislative Assembly the constituency is the whole province. The electoral qualifications are those required in general constituencies in the Punjab with the addition that a tenant of immoveable property, other than land assessed to land revenue, is enfranchised on the same terms as an owner of such property. The number of electors on the roll at the last election was 5,551 and 65 per cent. of them voted.

The authors of the Report on Indian Constitutional Reforms in their one hundred and ninety eighth paragraph suggested that the expediency of setting up in such areas an advisory Council, adjusted in composition and function to local conditions, should be considered by the Government of India. The conclusion which the Government of India reached was that in Delhi there is no need for such a body. The province has an area about equal to a subdivision of a district, and already possesses in its Municipal and District Boards Indian bodies whose advice is available on all matters concerning the administration.

Possibility of
change in the
constitutional
status of the
Province.

6. No demand for any alteration in the constitutional position of the province has so far been addressed to the Government of India. There are no indications of any popular demand of this nature. But in the resolution passed by the All Parties Conference regarding the re-distribution of provinces and the treatment of centrally administered areas, it has been suggested that, among other such areas, the province of Delhi should be placed on the same footing in respect of its form of Government and its executive and judicial administration as any other province. It is possible, therefore, that the question of granting a reformed constitution to

Delhi province may be pressed upon the attention of the Commission.

There are at least two aspects from which this question may be regarded. The first is that the province of Delhi comprises the seat of the Imperial Government and those areas alone which cannot be conveniently severed from it. It was precisely because the seat of the Central Government was transferred here from Calcutta that the province was constituted, and one of the most important objects which the transfer was designed to secure was the complete dissociation of the supreme Government from any particular provincial Government. It may be argued that the principle of central administration of the headquarters of the Central Government has the support of the precedents of many other countries, and that it is desirable that a province which owes its very existence to the presence of the supreme Government should be under the direct administration of that Government. It may, however, on the other hand be argued that for one-half of the year the Central Government, while in Simla, is situated in a provincially administered area, and that for the rest of the year in Delhi its interests would not suffer at the hands of an administration such as the Punjab Government exercises in Simla. It may also be said that Lord Hardinge's Government, in considering it essential that the supreme Government should not be associated with any particular provincial Government, cannot have feared the malign influence of a tiny provincial government such as Delhi with a constitution would be.

The second aspect is that the grant of a reformed constitution involves legislative, financial and administrative devolution. It will be for consideration whether devolution of any of these kinds can be justified. As regards legislative devolution it may be argued that the demarcation of a provincial field of legislation for small areas can be justified only when an area is sharply discriminated either by natural conditions or by the race, habits and interests of its people. That justification may exist in Coorg. But Delhi province is an artificially created entity in which the possible range of differences in legislation from the Punjab is very limited and in which marked peculiarities of law would cause many inconveniences. The present method of legislation already described prevents a diversity of legislation where there is no natural diversity of condition. If in the absence of any natural differentiation of Delhi province from the adjacent provinces the appropriate procedure is that the statute law of Delhi should be the statute law of the Punjab with suitable modifications, then the scope of such modifications is, perhaps, incapable of reduction to a definition of powers which a local legislature might exercise. It might, therefore, be argued that the present method of legislating for the province is the only one which is suitable to its conditions.

As regards financial devolution, it will be for examination whether the Delhi accounts are not swollen by large figures of central receipts and central expenditure, and whether, while on the one hand purely provincial expenditure is normally in excess of

provincial receipts, on the other a province constituted to be the seat of the supreme Government does not require a scale of expenditure much greater than provincial revenues would justify. *Primâ facie*, expenditure undertaken in excess of provincial requirements and in the interests of the Central Government should be centrally administered. If the annual deficit in the provincial budget were met by a subvention from central revenues, that subvention, on the hypothesis of a reformed provincial constitution, would have to be fixed for a period of years. In the result, the requirements of the Imperial enclave would depend to a greater or less extent on local taxation and on the readiness of a local legislature to impose it.

As regards administrative devolution it might be argued that following the precedents of other countries, it is desirable that the Supreme Government and the Indian Legislature should have complete authority. It would, for instance, be improper, it might be said, that the Supreme Government should have only a remote interest in the general and political condition and in the good order of its own enclave. The development and the efficient administration of the seat of the Imperial Government are the intimate concern of that Government.

THE ANDAMAN AND NICOBAR ISLANDS.

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The Andaman and Nicobar Islands.

The
Andamans
and Nicobars
unsuitable for
constitutional
advance.

1. For reasons which are sufficiently clear no proposal has ever been put forward nor has any suggestion been at any time made for the extension to the Andaman and Nicobar Islands of any form either of responsible or of representative government. These islands are, however, a centrally administered area of the Government of India; and some aspects of their administration are therefore briefly described in this memorandum. The two most important facts to be brought out in the memorandum are

- (1) that the primitive aboriginal inhabitants of the islands have not been brought under any direct form of administration; they are left as far as possible to themselves, and
- (2) that as the result of a decision taken in 1921 the settlement of Port Blair is to be discontinued as a penal settlement and developed as a free colony. It still retains a large convict population, and will continue to do so for a number of years to come; but the new policy is being

brought into effect, and the present is a difficult period of transition in the administration of the settlement.

2. The Andamans and the Nicobars are two distinct groups of islands, which were not united under the same administration till 1871 when the Chief Commissionership of the Andaman and Nicobar Islands was formed.

In 1788 owing to piracies and the ill-treatment of shipwrecked and distressed crews, the East India Company commissioned the surveyor Archibald Blair to start a settlement in the Andaman islands on the ordinary lines to which convicts were afterwards sent as labourers. Blair fixed on Port Blair for his settlement in 1789 (it was not first so named); but for strategical reasons the settlement was moved to Port Cornwallis in 1792. This was an unfortunate change of site, and four years later in 1796 the Court of Directors recorded a minute abolishing the settlement on account of the sickness and mortality among the settlers.

Continuous piracy and murders led to the second occupation in 1856 when the Government of Bengal suggested the establishment in the islands of a penal settlement. The Mutiny of 1857 threw a large number of mutineers, deserters, and rebels in the hands of the Government, and in November of that year it was finally decided to send them to the Andamans. In 1858 the penal settlement was begun, one of the last acts of the East India Company being the formal confirmation of the Government of India's proceedings.

3. Unlike the Andamans the Nicobars have a long history of European occupation. They attracted the attention of Portuguese missionaries in the seventeenth century and possibly much earlier. In 1756 the Danes took possession of the islands: and various attempts were made at conversion and colonisation. From 1807 to 1814 during the Napoleonic Wars the islands were in British possession and then handed back by treaty to the Danes. In 1848 the Danes formally relinquished sovereignty and finally removed all remains of their settlement. In 1869 after an amicable negotiation with the Danish Government the British took formal possession of the Nicobars, and established at Nancowry Harbour, subordinate to that in the Andamans, a penal settlement which was withdrawn in 1888.

4. The land area of the islands under the Administration is 3,143 square miles; 2,508 square miles in the Andamans, and 635 square miles in the Nicobars. The population of the whole area was returned at the census of 1901 as 24,649 consisting of 1,882 Andamanese, 6,511 Nicobarese and 16,256 persons living in the Penal Settlement. When the census of 1921 was taken, the population had increased to 27,086 consisting of 2,139 Andamanese, 9,272 Nicobarese and 15,675 persons living in the Penal Settlement.

The Settlement of Port Blair consists of the South Andaman and the islands attached thereto, covering 473 square miles. Some portions of the settlement, covered by dense jungle, are still not in actual occupation, and have remained in the hands of the Jarawas. one of the several Andamanese tribes.

The Andamans occupied in 1789: the first settlement abandoned in 1796; the islands reoccupied in 1856.

Formal possession of the Nicobars assumed in 1869.

Area and population.

The adminis-
tration of the
Nicobars.

5. For administrative purposes the area falls into three groups (1) the settlement of Port Blair, (2) those portions of the Andaman islands not included within the settlement; and (3) the Nicobar islands.

There is no established form of direct administration of those parts of the administration which lie outside the settlement at Port Blair. The Andamanese and the Nicobarese are among the most primitive types of mankind, and the policy of Government is to interfere with them as little as possible.

When the Nicobar islands were under occupation as a penal settlement in 1882 a system of control was started by means of the formal appointments of all chiefs as from the British Government. This system has survived and by its means a sufficiently effective continuous control is maintained. The chiefs thus appointed are, as far as possible, selected by the people themselves, but Government reserves to itself the power to depose any chief who misbehaves and to appoint another in his place. The chiefs are charged with certain official duties, for instance to report to official visitors all occurrences especially smuggling, wrecks and violent offences and to assist in keeping order. On the whole the chiefs perform their duties as well as might be expected from people of their civilisation. In every other respect the people are left to themselves.

A Government Agent is maintained at Nancowry and his duties are to assist the chiefs in keeping order, to collect fees for licenses to trade in the islands, to give port clearances, to report all occurrences, to prevent the smuggling of liquor and arms, and to settle petty disputes among the people themselves, or between the people and the traders, as amicably as may be. Excepting the ceremonial "devil murders" of Car Nicobar, when they occur, there is scarcely any violent crime; the "devil murders" are dealt with direct from Port Blair.

The adminis-
tration of the
Andamans
outside the
limits of the
settlement of
Port Blair.

6 Administrative touch with those parts of the Andamans which lie outside the penal settlement of Port Blair is even more lightly maintained than with the Nicobars. Such slight administrative control as is exercised over the Andamanese is exercised by an officer in charge of them, who is one of the executive magisterial officers of the penal settlement appointed for the purpose by the Chief Commissioner. Since the establishment of the settlement in 1858 a home for the Andamanese has been maintained at Port Blair for the use of the aborigines as a free asylum to which any Andamanese is admitted. He may stay as long as he pleases, and go when it suits him. While there he is housed, fed and taken care of, and for the sick there is a good and properly maintained hospital. In return the residents in the home are employed to help in catching runaway convicts, in collecting edible birds' nests and trepang and other natural produce, and in making curios, the small income derived from which is spent on them.

In short the present policy, and it is a policy which has not varied since the settlement was established, is to leave the Andamanese alone, but to do what is possible in the conditions to

ameliorate their lives. The administrative objects gained by establishing friendly relations with the tribes have been the cessation of the former murders of shipwrecked crews, the external peace of the settlement, and the creation of a jungle police to prevent escapes of convicts and secure the recapture of runaways.

During recent years there has been some loss of contact between the Administration and the Andamanese to some extent intentional on the part of the former. The number of Andamanese who are rationed by the Home decreases annually and the admissions to hospital have dropped in five years from 50 to *nil*. The bulk of the surviving Andamanese belong to tribes whose real home is the North Andaman island, and any contact they desire with civilisation they obtain at the Forest Settlement of Bonington in Stewart Sound.

7. The settlement of Port Blair is administered by the Chief Commissioner as Superintendent with a staff of assistants. Since the abolition in 1915 of the former separate Andamans Commission officers have been recruited for the Andamans on deputation from the various services in India. The Andamans Commission was abolished because it was found that a system by which officers spent their entire service in isolated and narrow surroundings was not conducive to efficiency. There are a number of special departments, police, medical, forests, etc., of the usual type except that all civil officers are invested with special powers over convicts. Civil and criminal justice is administered by a series of courts under the Chief Commissioner who is also the chief revenue and financial authority.

The administration of the settlement of Port Blair.

The settlement centres round the harbour Port Blair, the administrative headquarters being on Ross Island, an islet of less than a quarter of a square mile, across the entrance of the harbour. For administrative purposes the settlement is divided into two districts and four sub-divisions.

The population of the settlement consists of convicts, their guards, the supervising clerical and departmental staff, with the families of the latter, and a certain number of ex-convict and trading settlers and their families. As a result of the new policy free settlers are encouraged to make their homes in the settlement. The convicts while in the settlement are divided in several ways; the great economic division for both sexes is into labouring convicts and 'self-supporters'. The settlement is divided into what are known as the 'free' and the 'convict' portions, by which the free settlers living in villages are separated from the 'self-supporters' who also live in villages.

8. One of the most important subjects discussed in the report of the Indian Jails Committee of 1921 was the future of the penal settlement in the Andamans. The publication of the report was followed by an announcement made by the Home Member in the Legislative Assembly on the 11th March 1921 to the effect that, though some considerable time must elapse before their policy could be completely carried out, the Government of India had decided that the time had come to end the use of the Andamans as a penal settlement.

The decision in 1921 to abandon the Andamans as a penal settlement.

This decision was communicated to the local Governments with directions to stop absolutely the transportation of females and to repatriate female convicts already in the Andamans not married locally, and, also, so far as was practicable, to stop the transportation of male convicts. This stoppage of transportation to the Andamans resulted in serious over-crowding in the jails of nearly all the provinces, especially in the Punjab, in the Madras Presidency owing to the influx of prisoners sentenced as a result of the Malabar disturbances, and in the North-West Frontier Province, where the jail population in 1922 exceeded the available accommodation by over 40 per cent. For this reason the Government of India reluctantly agreed to reopen transportation temporarily from those provinces where the position was most serious; an absolute prohibition was, however, maintained on the transportation of females, of persons convicted of offences in connection with political movements, and of prisoners suspected of a tendency to unnatural vice.

There were similar difficulties in any immediate repatriation of prisoners from the Andamans; not only would their return have aggravated the conditions in the Indian jails, but a considerable number of self-supporters lived in semi-independence in the settlement, to whom close confinement in an Indian jail would have been a serious hardship. A beginning was, however, made by the transfer of as many as possible of the convicts who had suffered in health or had proved incorrigible. In 1921, when Government decided to close the settlement the convict population numbered 11,532; by December 1926 their number had been reduced to 7,740.

The lines
of future
development.

9. In appendix I to this memorandum a copy is given of a resolution issued by the Government of India on the 27th February 1926 stating the steps which had been taken by Government to give effect to the decision of 1921 and making a public declaration of their policy for the future development of the islands. Owing to difficulties in at once introducing a sufficient number of free settlers to supply the deficiency in convict labour the policy was adopted of encouraging convicts to import their wives and families and efforts were made to obtain convicts in Indian jails to volunteer for transfer to the Andamans.

The Mappilla
colonisation
scheme
and the
Andamans
Deputation,
1925-26.

10. In paragraph 8 of the resolution of the 27th February 1926 reference was made to the success with which Mappilla convicts had been established in the Andamans. These were convicts who had been permitted by the Government of India to be transported by the Government of Madras in order to relieve the congestion in the jails of the Madras Presidency, which had been taxed to their utmost capacity by the large number of convictions in the Malabar rebellion. The establishment of the Mappilla convicts in the Andamans was misunderstood and it was being represented that the families of these convicts were being removed from Malabar in the interest of the Nairs who were anxious to get rid of the Mappillas from Malabar. The transfer of Mappilla women and children was therefore stopped in 1926 pending a report by a deputation of four non-official gentle-

men who visited the Andaman islands in December 1925 in order to see for themselves the conditions in which the Mappilla settlers were living. A copy of the report submitted by the deputation is attached as appendix II to this memorandum.

11. The criticisms made by the three Muslim members of the deputation were refuted by the Government of India in a resolution dated the 4th October 1926, of which a copy is given as appendix III to this memorandum. As a result, however, of the visit of the deputation to the Andamans it was decided that the Mappilla colonisation scheme should continue on its present lines but on a voluntary basis. Mappilla settlers at present in the Andamans who wish to return to jails in India and to send back their wives and families to Malabar would be allowed to do so: long-term Mappilla prisoners in jails in India would be given the option of remaining in the jails or taking up the life of a settler in the Andamans with their families. Those volunteering for the Andamans would further have the option, after remaining one year in the Andamans, of returning to jails in India and sending back their wives and families to Malabar.

12. The Andaman and Nicobar islands are not deregulationized territory, that is to say there is no law under which the application to those islands of enactments extending to the whole of British India is barred or restricted. Special legislation for the islands is however undertaken by regulation under section 71 of the Government of India Act. The first formal regulation for the islands was made in 1874, but gave place two years later to the Andaman and Nicobar Islands Regulation 1876 which, with subsequent amendments, is still in force. The Regulation proceeds on lines suited to a penal settlement; and since the change of policy in 1921 gradually to discontinue the settlement as a convict settlement, the Andaman and Nicobar Islands Land-tenure Regulation III of 1926 has been promulgated on more liberal lines to confer security of tenure on small as well as large holders and to enable convicts to acquire occupancy rights on release. The Andaman and Nicobar Islands (Amendment) Regulation II of 1927 was promulgated to abolish landing-permits, which are however still required for the Nicobars. The requirement of landing-permits from persons wishing to proceed to the Andamans was felt to be a formidable stumbling block to the development of Port Blair as a free colony.

13. It has at no time been the policy of Government to raise revenue from the aboriginal population of the islands, and financial interests have been confined to the settlement at Port Blair, in which the requirements of convict discipline and management have been placed before revenue. Somewhat heavy capital expenditure is now being undertaken by Government with the object of reclaiming swamps in the more thickly populated parts of the settlement, in order to stimulate development. The Administration is a direct charge upon central revenues, and the entire cost of the settlement at Port Blair is borne by the Central Government. When it was decided to discontinue the transportation of prisoners to the And-

Allegations in the report of the deputation refuted by the Government of India.

Legislation by regulation under section 71 of the Government of India Act.

Financial arrangements.

mans, it was recognised that increased expenditure would be thrown on the provinces. It was held, however, that since jails are a provincial subject, the provinces had no claim to any contribution from central revenues to meet the additional expenditure thrown upon them.

During the last few years receipts have varied between Rs. 13 and 14 lakhs, and expenditure between Rs. 30 and 40 lakhs.

APPENDIX I.

The Government of India's Resolution No. F.-20/26, dated the 27th February 1926.

HOME DEPARTMENT.

RESOLUTION.

JAILS.

Delhi, the 27th February 1926.

No. F.-20/26.—In March 1921, the Hon'ble Sir William Vincent announced in the Legislative Assembly that the Government of India had decided to abandon the Andaman Islands as a penal settlement. No further statement of policy in relation to these islands has since been made though the question of their future has in one form or another constantly been before Government. In October last, the Hon'ble Sir Alexander Muddiman, Member of the Executive Council of His Excellency the Governor General, visited the islands, saw the progress that had been made since 1921 towards the development of a free settlement and had the advantage of discussing future policy with the local authorities. As a result of this visit the Government of India have decided that it is desirable for them to review briefly the recent history of the Andamans administration and to state their policy as to future development of the islands.

2. The penal settlement was founded at Port Blair, the principal harbour in the Islands, in 1858. For a period of over 60 years prisoners sentenced to transportation were regularly sent to the settlement. In 1921, when Government decided to close the settlement the convict population numbered 11,532, of whom 1,168 were self-supporters. Of these about 3,000 were persons convicted of crimes of passion, about 6,000 were criminals convicted of serious offences but not habituals, and the remaining 2,500 were professional criminals who had adopted a life of crime as a means of livelihood as a result either of environment or of inherited criminal proclivities. Under the system in force up till 1921 a convict was kept in the cellular jail for the first six months after his arrival in the settlement, and thereafter, for a period of nine and half years he

remained a member of a labour corps, lived in barracks, was fed and clothed by Government and earned a small gratuity in cash. After ten years in the settlement a convict could, provided his conduct had been satisfactory and that he had shown a capacity to care for himself, be given a ticket of leave. The privileges of a convict on ticket of leave were that he was allowed to import his wife or marry locally and to live a life of semi-independence either in a village as a cultivator or milk seller or in private service or engaged in some other work from which he could gain a livelihood. Release came, subject of course to satisfactory conduct, after a convict had served 20 years—if convicted of an offence committed as a result of passion or which was not proof of a definitely criminal nature, or 25 years if he had been convicted of such a serious offence as dacoity or was a professional criminal. On release a convict had to leave the settlement.

3. In addition to the ever changing convict population there was in 1921 a permanent population of about 3,000 persons known as "local-born". These were for the most part descendants of convicts. They found employment either on the land as cultivators of small holdings, or in trade in one of the bazars, or in one form or other of Government service. The settlement was run definitely as a penal one and in consequence the civil rights and privileges of this local population were very restricted. As cultivators they remained tenants at will and had no real security of tenure; they were liable to transfer from one village to another if the interest of the settlement so required, and they had no rights in any property whatever. Nothing had in fact been done to encourage land settlement and development. Although about 80 square miles of primeval forest had been cleared by Government only 3,300 acres were under crops. Government plantations covered another 3,300 acres of which 2,300 acres were under coconuts, 680 acres under rubber and the remainder under tea and coffee. There was also an area of some 13,000 acres of grazing land. Communications had been facilitated by the metalling of about 100 miles of road.

4. The task of closing the penal settlement has not been found an easy one. At the outset two serious difficulties were experienced. In the first place there was the considerable number of self-supporters in the settlement who were enjoying a life of semi-independence. To have transferred these persons forthwith to Indian jails to serve the remainder of their sentences in close confinement would have been a serious hardship. On the other hand the decision to close the settlement could not be regarded as a sufficient reason for releasing self-supporters before they had served their sentences. The second difficulty was the congested condition of Indian jails in most provinces which rendered it impossible for local Governments to agree to the immediate transfer of large numbers of prisoners. These two considerations made anything but gradual withdrawal impossible. A beginning was made by the transfer of as many as possible of the convicts who had suffered in health or had proved incorrigible in conduct and these transfers together with the almost complete stoppage of transfers from India to the settlement have

already effected a large reduction in the convict population which in December last numbered 7,740, a reduction of 33 per cent.

5. As a result of the decision to abandon the penal settlement and the practical steps taken to give effect to that decision, the question of the future of the islands came into prominence. The alternatives were partial abandonment with the probable consequence of retrogression which is apt to be rapid in a tropical climate, and conversion into a free settlement. There were many reasons why abandonment could not for a moment be contemplated. One important consideration was the existence of the local-born population who have grown up in the settlement and know no other home. It would be a very serious hardship to them if Government abandoned the settlement altogether. Another consideration was that the islands occupy an important strategic position in the Bay of Bengal, have a fine harbour, and are a very distinct asset to India from the naval point of view. The meteorological and wireless stations are also of much value to shipping in the surrounding seas. Apart from these considerations there is the inherent wealth of the islands, agricultural and forest, and the possibility of developing them into a valuable asset. For all these reasons Government policy has since 1921 been directed towards the conversion of the penal settlement into a self-supporting community.

6. Development on these lines has already effected some notable changes in the settlement, particularly in the treatment of convicts. Practically the whole labour force of the islands consisted of convicts. The reduction of the convict population at once began to cause a shortage of labour and efforts were therefore made to introduce a free population from outside. At the first attempt these efforts failed. The islands had acquired a sinister reputation as a place of banishment. Government thereupon decided to make use of the material at hand and to try to induce convicts to remain as free settlers, by relaxing their conditions, granting them tickets of leave after a short period of probation and obtaining their wives for them from India. The ticket of leave system was widely extended and a new departure was the grant of tickets to convicts retained on Government work whereby they were paid wages on a sliding scale according to skill. Another change was the grant to convicts on rations and a free clothing basis of relaxations which were designed to remove the stigma of the convict state. These changes have already produced tangible results. Whereas in 1919 10,000 labouring convicts were required for public works and services the same works and services are now being carried on by a mixed force of 5,500 labouring convicts and self-supporters. There is a great change in the mental outlook of the convict and this is reflected in his whole bearing and conduct, in his capacity for work, and in his general health. One example may be quoted. The Chatham Sawmill formerly employed 57 labouring convicts and 159 self-supporters, a total of 216. The daily sick rate among the labouring convicts was 35 per cent. and among the self-supporters 2.5 per cent. It now employs only 197 self-supporters and their sick rate last year was just over 2.25 per cent. The Chief Commissioner has expressed

the view that the bad name of the islands for health was at least in part due to the mental condition of the convicts as well as in part to malingering, and by no means solely to the inherent unhealthiness of the locality. In support of this view he cites the case of the free population engaged in forest work in the North Andaman who are not troubled by malaria and have a daily sick rate of only 1 per cent. although living in conditions apparently similar to those of Port Blair. The change in the distribution of the convict population since 1921 is shown by the following figures. In 1921 out of a total of 11,532 only 1,168 were self-supporters. In December 1925 out of a total convict population of 7,740, there were 2,105 self-supporters drawing wages from Government and 2,272 agricultural and other self-supporters. The proportion of self-supporters has thus been increased from 10 per cent. to 56 per cent. in a period of less than five years.

7. The interests of the free population, which now numbers between 4,000 and 5,000, have also been receiving attention and at the same time efforts have been made to attract persons with some capital to take up grants of land. Hitherto it has not been possible to give either small holders or persons desiring larger areas for development purposes any real security of tenure. A new Regulation has, however, recently received the assent of His Excellency the Governor General, and will come into effect at an early date. Under this Regulation it will be possible to give grants of land with scope for development on a tenure which may extend to 60 years, while small holders will be able to obtain occupancy rights under easy conditions. Convicts who are cultivating holdings will not receive occupancy rights until the expiry of their sentences but will, if otherwise qualified, be entitled to receive them from the day of their release. The more liberal grant of agricultural tickets and the prospect of receiving occupancy rights has given a considerable stimulus to agriculture, and the area under annual crops had risen from 3,300 acres in 1921 to 6,400 acres in 1925, an increase of 94 per cent. Several hundred acres have also been planted with coconuts.

8. To complete the description of steps already taken to develop the settlement mention must be made of the efforts to induce convicts to import their wives and families and also the efforts to obtain convicts in Indian jails to volunteer for transfer to the Andamans. The attempt to provide a population by the settlement of married convicts has had little success so far except in the case of the Mappillas, but Government hope that further efforts may prove more successful. In the case of the Mappillas the scheme has proved an unqualified success. Of 1,133 Mappilla convicts 258 have been given agricultural tickets and have obtained their wives, children and other relatives from India to the number of 468. Applications have been received from a large number of convicts for their wives and families, and many of these are still awaiting disposal. The transfer of Mappilla women and children has been stopped for the time being and Government are still awaiting the report of some of the gentlemen who went to the islands in December last to see for

themselves the conditions in which the Mappilla settlers were living. That report when received will be carefully considered, but such information as is before the Government of India shows that the condition of the Mappilla villages already established in the islands is satisfactory and prosperous. The question remains, however, whether the Mappilla convicts who have not yet been able to obtain their wives and families are to serve the remainder of their sentences without them and the amenities which the presence of their families confer on them. It must be explained that the grant of agricultural tickets is to a great extent dependent on a convict having a wife and family to assist him, as experience has shown that a single convict cannot satisfactorily cultivate a holding by himself.

9. During the past eighteen months 276 men and 31 women convicts have gone as volunteers from Indian jails to the Andamans. The women have all been eligible for marriage, have selected husbands, and have settled down. The reasons why Government has encouraged this system of volunteering for service in the Andamans differ according to the sex of the convict. In the case of women it is to increase the female population, to provide wives for some of the convicts and thereby to enable them to settle on the land in the hope that they will remain permanently. In the case of the men it is to reinforce the dwindling ranks of labouring convicts and thereby increase the labour available for the work of the settlement.

10. As a result of their review of the progress made during the past few years the Government of India have decided to continue development along the present lines. In pursuance of that policy they propose to spend a sum of 4½ lakhs in the current and coming financial years on reclaiming certain swamps in the neighbourhood of the more thickly populated parts of the settlement. It has been definitely established that the principal local carrier of malaria is the anopheline *Nyssomyzomia ludlowi* which breeds in the back areas of the swamps lying within the residential area, and the reclamation of these swamps should result in a marked improvement in the health of the settlement. A fact which is not generally known is that malaria is not prevalent throughout the islands. It is unknown on Ross Island and as has been mentioned above is unknown in the forest camps in the North Andaman. It is, in fact, confined largely to the neighbourhood of the unhealthy swamps where the carriers are known to breed.

11. A sufficient labour force to carry on essential public works during the transition period must be maintained. For this purpose Government propose to continue on a somewhat more definite basis the system of obtaining volunteers from Indian Jails. Only well-behaved young convicts of the star class, in other words men whose crimes were committed under provocation or in circumstances showing no hereditary taint will be taken, and especially men of that class who are prepared to take their wives with them. After arrival in the settlement these men will be given tickets of leave after a brief period of probation. It is hoped that the semi-free life in the Andamans will attract a considerable number of volunteers.

The Government of India regard this policy as desirable not only from the point of view of the development of the islands themselves but also as an experiment in penology which will give selected convicts an opportunity of rehabilitating themselves in new surroundings. They learn with great satisfaction from the present Chief Commissioner that the policy which he has adopted, and which they heartily commend, of giving greater freedom to well-behaved convicts has resulted in a marked change in the general moral atmosphere. While the quota of work done is more than before, there is better behaviour, more happiness, more stamina, better health and very much less malingering. It must be made clear, however, that the intention of the Government of India is to test this method of recruiting labour for public purposes only so long as the local free population is insufficient to provide an adequate supply. While as mentioned above Government have for the time being stopped the transfer of the wives and families of Mappillas, they consider it essential to do everything possible to increase the female population of the islands and for that reason will not relax their efforts to get convicts other than Mappillas to obtain their wives from India.

12. The agricultural development of the islands has suffered from the artificial nature of the settlement and the lack of any security of tenure in land. The steps taken to give greater security have been explained above. In order to improve the system of agriculture and place expert advice within the reach of settlers, the Government of India have sanctioned the employment of an Agricultural officer and are at present trying to find a suitable incumbent for the post. The islands afford hopeful prospects for coconut plantations as they are free from the two main coconut pests, the rhinoceros beetle and the red weevil, and there is practically no coconut disease. Even without proper care or cultivation coconut trees give a rich yield and there is a good market for their produce. Liberian coffee is also successfully grown and commands a good price, while there is also a ready market for the low country tea grown in the Islands. Considerable prominence has been given in the Press in recent years to the possibilities of the islands for settlement by domiciled Europeans and Anglo-Indians. The Government of India are prepared to receive applications for land from these as well as from persons of other classes, but they consider it necessary to give expression to a word of warning by making it clear that the climate of the islands is definitely tropical and that any form of agriculture involving hard physical labour in such a climate is unlikely to be congenial to persons not accustomed to manual work in moist heat. For persons of these communities therefore a small plantation holds out the best hope of success and for that capital (not less than Rs. 5,000) is essential. For cultivators able to work small holdings there is plenty of good land available and Government are anxious to encourage settlers from India. Free labour can now be imported at moderate rates and Government itself has been successful in establishing a small but genuine settlement of some 30 Karen families in the middle Andamans. They hope

to be able to place several hundred more Karen families in the same locality where labour is required for forest work. A party of 160 returned emigrants from Natal recently arrived in Port Blair with the intention of settling in the islands and Government will welcome further parties of the same class who are prepared to accept local conditions.

13. Some reference must also be made to forest development. There are some 2,200 square miles of virgin forest in the Islands, two-thirds of which, or an area of over 1,400 square miles, is estimated to be capable of profitable working. The existing supply of mature timber of species which can be at present marketed at a profit is calculated to be about 10 tons per acre or 8,960,000 tons in all, while the annual sustained yield could be as much as 100,000 tons. The bulk of this timber consists of five principal species, namely, padauk (*Pterocarpus dalbergioides*), gurjan (*Dipterocarpus spp.*), dhup (*Canarium euphyllum*), badam (*Terminalia procera*) and papita (*Sterculia campanulata*). In addition to these main species lesser quantities of such hardwoods as white chuglam (*Terminalia bialata*), koko (*Albizia Lebbek*), pyinma (*Lagerstræmia hypoleuca*), black chuglam (*Terminalia Manii*), and of such softwoods as didu (*Bombax insigne*), thitpok (*Tetrametes nudiflora*), and lettok (*Sterculia alata*) will be available. The configuration of the country is exceptionally favourable both for the extraction and the shipment of timbers. The Forest Department at present employs about 1,000 labourers in its two divisions in the North and South Andamans and operates two saw-mills. During the past 5 years the average volume of timber exported has been only 6,000 tons per annum, though it rose to over 8,500 tons last year, of which 1,850 tons were sent to Europe, and a further considerable increase is expected in the present year. The existing plant is capable of an outturn of some 20,000 tons per annum, but it is obvious that, even when such an outturn is attained, the scope for development, given favourable market conditions, will still remain very large.

14. In conclusion the Government of India take this opportunity of expressing their thanks to the present Chief Commissioner, Lt.-Col. M. L. Ferrar, C.I.E., O.B.E., and the officers of the local Administration for the manner in which they have carried out their duties during a difficult period of transition. New problems are always presenting themselves and demanding solution but the Government of India feel confident that the local officers will continue to work with devotion and enthusiasm in the interests of the islands and those who are resident in them either as free settlers or as convicts.

ORDER.—Ordered that the Resolution be published in the *Gazette of India* and that a copy be forwarded to local Governments and Administrations for information.

J. CRERAR,
Secy. to the Govt. of India.

APPENDIX II.

The Report of the Andamans Deputation, 1925-26.

MEMBERS :

MAHMUD SHAMNAD Sahib Bahadur, M.L.A.

SYED MURTAZA Sahib Bahadur, M.L.A.

Mir ABBAS ALI Sahib Bahadur, M.A., LL.B., Bar.-at-Law,
M.L.C.

Dr. K. D. MUGASETH, L.M.S.

I. REPORT

BY

DR. K. D. MUGASETH, L.M.S.

Mapilla Colonisation in the Andaman Islands.

We arrived at Port Blair on 4th December and spent the next 4 days in visiting the new Mopla Villages. The climate of the Andamans is very much like that of Malabar. It rained on the 5th and 6th instants heavily reminding one of the Karkadam rains of Malabar and the muggy weather afterwards also same as experienced in Malabar. We visited Malapuram and Mannarghat villages the next day, where we were welcomed by a group of Mopla children in charge of their Teacher, all clean and well clad. Saw the school building where the children are taught Urdu, Malayalam and Koran Sheriff. The Mopla men and women were also clean and looked well. Their huts made of bamboo and thatched with palm leaves compare very favourably with the huts (chettapuras) we find about Kundungal and Velayil in Calicut. The land adjoining was under paddy cultivation. Some of the paddy being damaged by the heavy rains. It is a credit to the Mopla that he has cleared the jungle and brought the land under cultivation in such a short time. We also visited Knappuram where also same conditions prevailed. Small wooden mosques are being built at these villages. Some men and women of these villages told us that they preferred to remain on the Island with their families rather than go back to Indian Jails and be separated from their families but soon after they changed and said that they did not want to stay in the Andamans and that they preferred Indian Jails even if the families were starving in their own homes. Only one man at Knappuram said that he and his family would like to stay back even if all the others returned to the Indian Jails. At Calicut and Herbertabad same conditions prevailed. At the latter village

paddy seemed to be particularly good. Here the Moplas complained that they had no place of worship. None of the convicts wished to stay on the Island. They all complained that although they were promised full rations for all the members of the family coming out from India only the wives and children were given this. Father, mother, and brother of any of the convicts did not receive any rations at all. That they were not given full quantity of rations they were supposed to get. They also wanted cocoanut oil instead of mustard oil supplied.

I. They were much concerned that they got no remission of sentence as in Indian Jails which is as much as 36 days per annum.

II. That they are taxed grazing fees for their cows, goats, etc.

III. The Taccavi loan of Rs. 200 is to be returned by the end of the year with a interest at $6\frac{1}{4}$ per cent.

IV. That they are taxed Vigilance or Police tax.

V. No further loan is given to them in case of their bullock (ploughing) dying and they have to find means of buying fresh animals themselves.

VI. They have no occupation rights over the land they till and improve until 5 years after the expiry of the term of imprisonment. They wish to get free possession as soon as the term of conviction is over.

VII. Their rations are to be stopped 12 months after they become self-supporters, even if crop proves a failure.

The land is very fertile and there are very great opportunities of colonising in the Andamans. Paddy flats seem to be coming up very well, sugarcane, turmeric, tobacco, etc., grows profusely. Timber abounds in the forests, cocoanut plantations of the Government which are now leased over give a very good return to the lucky investors.

The free settlers seem to be doing good trade in the Bazaar at Aberdeen and one is able to feel the bon-homi in the place.

Malaria is very prevalent in the Islands. I saw several Moplas in the different villages with fever and others with spleens. According to Col. Christopher Malaria is said to be prevalent near the shore due to presence of the mosquitoes in the swamps. Attempts have been made to fill up the swamps and rid the place of fever. Col. Barker in his article shows the gradual and steady improvement of Malaria from the year 1919 to 1922, viz., 14,828 in 1919; 2,600 in 1922 and this improvement is maintained. Mr. T. R. Govindswami Pillayi, Sub-Assistant Surgeon who has been working there for several years informs me that Malaria is growing steadily less and less. It cannot be gainsaid that as new lands are opened up and jungles cleared recrudescence of malaria is bound to come but with conditunal treatment, medical and hygienic this scourage which is not peculiar to the Andamans only, will be overcome. It has been declared that all the Quinine in the world is not sufficient for treating malaria cases prevalent in Bengal for one year at 80

grs. per head and still Bengal is one of the best paddy growing lands in India. Malaria, it is a well established fact, is a disease of poverty and goes in a vicious circle, side by side with sanitary improvements of the land and improving the general condition of the people living there I mean their stamina malaria will be overcome.

Even the capital of India, I mean Delhi, is not immune to malaria. So there is no reason to be scared and to condemn the Andamans because it happens that for the present malaria prevails there. Like Port Sweetenham once a plague spot of malaria and now one of the most salubrious places of Malay all Andamans may also be freed.

A great deal has been said about the morality of the Andamans and no doubt in a place with such disproportion of men and women immorality of certain kinds do prevail. This will improve with the establishment of village life more families coming in and living together a healthy atmosphere will result naturally.

Recommendations.

1. Remission of sentences should be the same in the Andamans as in Indian Jails.

2. Petty taxes such as grazing fees Rs. 2-8 per annum on cows and 10 annas per goat should be abolished.

3. Taccavi loans should not be recovered for some years say 5, unless the self-supporter himself offers to return it. No interest should be charged on this loan for 3 years.

4. Police or Vigilance tax should not be demanded at all.

5. Land assessment must not be collected from the self-supporter for 5 years.

6. The self-supporter must have occupation rights over the land immediately his term of conviction ends.

7. Rations should be continued in case of failure of crops, even after a year.

In my opinion there are splendid opportunities for colonisation but a few convicts are not going to make the Andamans. Whilst colonisation by convicts is sound and should be encouraged it must be thrown open freely to anyone wishing to settle in the Andamans. The Islands have unfortunately acquired a bad name in the past and is not known to India except as a terrible penal settlement. This entirely mistaken notion of the place must be removed. Tourists and Colonists should be invited to see for themselves the splendid opportunities for the general colonisation. The place should no more be kept as a closed port, instead of one steamer plying to and fro and that under Government control; Port Blair should be made an open Port of call for all vessels and free trade allowed.

II. REPORT

BY

MAHMUD SCHAMNAD Sahib Bahadur, M.L.A.

SYED MURTAZA Sahib Bahadur, M.L.A.

Mir ABBAS ALI Sahib Bahadur, M.A., LL.B., Bar.-at-Law,
M.L.C.*Introductory.*

1. The offer of the Government of India to select two Moplah gentlemen to visit the Andamans so that they might see for themselves the conditions under which the Moplah convicts are being settled on the lands there was first made to one of us in Home Department letter No. D.-2008 (Jail), dated Simla, 22nd September 1925. The appointment of the present deputation however was communicated in Government of Madras (Law), D. O. No. 4300, dated the 19th and 20th November 1925, which stated that the Government of India have accepted the proposal that Mahmud Schamnad Sahib Bahadur, Syed Murtaza Sahib Bahadur, Mir Abbas Ali, Dr. K. D. Mugaseth should form the members of the deputation which is to proceed to the Andamans in connection with the Moplah Colonisation Scheme.

The terms of reference are set out in the Government of India Home Department's letter No. 188/24 (Jail), dated Delhi, the 26th November 1925.

2. Having received the necessary papers from the Secretary (Law) to the Madras Government, we reached Calcutta on the 30th November and sailed on the 1st December per "S.S. Maharaja" for the Andamans reaching Port Blair on the noon of the 4th. We met Lt.-Col. M. L. Ferrer, C.I.E., O.B.E., I.A., Chief Commissioner, Andaman and Nicobar Islands, the same day and drew up the programme for the remaining days of our stay in the Islands.

3. The rest of the day was spent in studying the local conditions with the help of the books and other literature placed so kindly at our disposal, while the following five days were fully utilised in visiting the Moplah villages. There are nine of these, *viz.*, Mannarghat, Mallapuram, Knappuram, Calicut, Manpur, Nayashahr, Herbertabad, Hashmatabad, and Muslimbasti. We were able to visit almost all the Moplah villages with the exception of Hashmatabad which had to be dropped on account of its inaccessibility. We made elaborate and impartial enquiries, the result of which are set out in the following pages. We propose to examine the suitability or otherwise of the Islands for Moplah Colonisation under three heads: (1) Economic, (2) Sanitary and Climatic, and (3) Moral Conditions.

Economic Conditions.—(i) Andamans remain to this day a penal settlement. No serious attempt was ever made to throw it open for Colonisation by free settlers. Even now no man can enter the Islands without a permit and none could leave without one. No person whether free or convict can send or receive any letter without censorship. The Communications with India are few and we believe "S.S. Maharaja", a Government Chartered Steamer, is the Chief steamship that plies between these Islands and the main land. Excepting paddy and an inferior variety of sugar-cane, nothing of any commercial importance grows on the Islands (excluding timber which is a Government monopoly). Indeed no serious attempts seem to have been made to make the colony a self-supporting one. The bare and ordinary necessities of life have to be imported from India at great cost. Even such things as onions, garlic, ginger, pepper, chillies, etc., etc., have to be imported. It is not surprising therefore that the prices ruling in the Andamans should be high, many articles selling fully 150 per cent. dearer than in India. Potatoes are 300 per cent. dearer. There are neither openings for nor immediate prospects of an indigenous internal trade developing. The only place of any commercial importance is Aberdeen where almost all the shops are located and most of the trade of the Islands is in the hands of the free-borns (*i.e.*), children of convicts settled there, and their prosperity depends exclusively on the continuance of Andamans as a penal settlement.

(ii) In the Islands there are no villages of the type with which we are familiar. The elements of ordinary Indian village life are absent. The few villages that there are, are not self-supporting economic units. They are a conglomeration of heterogenous mass of habitations, drawing their strength if any and inspiration from the fact that they share a common exile in a strange land far away from their homes. They have no common aim or ambition. Their senses are atrophied, their development cramped and stunted. Nothing better could be expected when men preponderate to women in the ratio of 10 to 1 in these villages. To set up Moplah villages in such surroundings will be a cruel mockery.

(iii) The Moplahs are not members of a jungle tribe with nomadic or roving instincts. They are members of a highly developed and organized society having reached the advanced Indian type of civilisation and as such need many comforts for their happiness and prosperity. None of these are available to them in the Islands. In almost all the Moplah villages we visited, the women complained that they were lured to enter these Islands by false promises. They had absolutely no money to buy anything that would give them comfort or soften the rigour of their exile. They got the same bare rations as their convict husbands and it is well known that convict rations are neither too liberal nor too good, each child getting half as much. On the other hand, no rations were given to the dependents such as aged parents and helpless brothers, who are also said to have been similarly lured and who had

to live upon the rations of the convicts and there are quite a number of these dependents who do not get anything at all.

(iv) The women without any money to supplement their many wants and needs were forced to sell away good bits of not only their rations but also of their husband's and children's and the prices realised are none too large as convict rations do not command good prices. In Malabar these women could always maintain themselves in a certain amount of comfort. There were many avenues of occupation and employment that they could always be sure of getting something which kept the wolf from the door and helped them to get on. All these are denied to them in these Islands. There are no occupations for them and even if there were, they have to walk miles and miles before they could get one. If once these destitute women were driven to seek employment in villages where men preponderate to women in the ratio of 10 to 1, the very object of segregating and isolating these Moplah villages and prohibiting others from entering them would become infructuous and futile.

(v) The women complained that in spite of strictest economies, they could not make both ends meet. The Moplahs are used to a mixed diet but they had no meat or fish for months at a time and even if the stuff should be available, the prices are so prohibitively high that it is impossible for them to buy. The children too are deprived of these small luxuries which they could always get at home in abundant quantities at a very reasonable price. The women complained that the Islands did not hold out any future for them or their offsprings. They are branded as wives of convicts and their children as offsprings of prisoners.

(vi) Most of the villages are located in recent jungle clearings. The whole day thousands of parrots cause havoc with ripe corn and at nights wild pigs destroy what little is left. An incessant vigil has to be kept day and night to safeguard the precious crop of a few bags of paddy, the result of months and months of labour and patience.

(vii) The soil in most places is stiff clay and crops look nice, but when examined carefully the ears of corn show that half of them are empty chaffs. This is chiefly due to want of phosphoric manure, such as bone and fish guano, none of which is available in the Islands. They have no agricultural experts to advise, guide or control. It is doubtful if the meagre yield of paddy from their dismal plots will ever give them enough to do away with State aid and to become self-supporting. Further the Moplahs in these villages are constantly in dread of that ever-present, mysterious and elusive enemy, the Jarawa. The Jarawas form one of the tribes in the Island, the most hostile in opposition to the settlement of the colonists. They could feel him, hear him, and yet could not see him. The air is full of him. In short he is everywhere and yet nowhere. The dread of this mysterious foe and still more of his lethal arrow is so great that none dare venture more than a few yards of their holdings both by day and night. Fight-

ing this enemy on even terms would be possible only if the Colonists are armed and the jungles cleared—but the very atmosphere of a convict Island rules out the possibility of arming.

Taxation.—The taxation also appears to be heavy. The Moplah convicts in the villages have to pay Rs. 3 per year as hut and Chowkidari tax, Rs. 2-2-0 for every head of cattle and annas 10 for every head of sheep or goat. Rs. 25 is the price per 1,000 leaves used for thatching their roofs and land-tax ranges from Rs. 1-8-0 to Rs. 6 per acre in addition to an education cess of 1 a. 3 ps. to 1 a. 6 ps. per rupee on the land-tax. To most of the Moplah Taccavi loans of Rs. 200 were given to enable them to buy bulls and interest is charged at the rate of $6\frac{1}{2}$ per cent. from the very first year and they are expected to repay the loan spread over a period of 4 years. We wonder how it could be possible for these destitute Moplahs living on the doles of the Government to pay these taxes and repay the loans. Under the Andaman circulars no convict can become owner of land. He can become one only after he has continuously cultivated the land for a period of five years after his release which is said on paper to be after a period of 20 years.

(viii) The Moplahs have no desire to stay in these Islands so long. Indeed every one of them, expressed to us a desire and longing to get back to the Indian Jails. To them Andamans has become a land of despair. The prisoners in Andamans never get any remissions, nor to they come under the healthy influence of the revising board and non-official jail visitors. In Indian Jails, liberal remissions are granted and it is quite common for convicts sentenced for life being released after 14 years, but in the Islands men sentenced for life ordinarily serve 20 long dreary years and a few months before the expiry of their sentence, the C. C., we understand, makes a reference to the Local Governments concerned if they are willing to receive the convicts whose terms are about to expire. Quite often the Local Governments are unable to do so with the result that they are kept under observation for a further period of five years and so on. So much so, it is not uncommon to see old men who have put in 30 years, languishing and rotting without any hope of escape or a chance of seeing their native land.

(ix) Indeed the root idea of conviction, *viz.*, reformation has been lost sight of and vindictiveness has taken its place. The Moplahs have come to know that in these Islands they will never—never be released. They dread and shudder at the prospect of staying for good with their families in these unhealthy Islands. We found the Moplahs sullen, morose and discontented. We are afraid the Moplahs will not make good Colonists. They do not love the land which they are forced to adopt and they look upon anything that smacks of permanent settlement in the Islands with extreme suspicion and hostility. Free colonisation may be a gorgeous adventure, but settlement in foreign lands without option is the nightmare of tragedy. For the same reason they have not had praying in the mosques built for them in Mallapuram and m.

(x) The Moplah convicts and their families lack the zeal and enthusiasm of pioneers which and which alone will make the Colonisation Scheme successful. It will take years and years before the Moplahs could ever become self-supporters and not before considerable sums of money had been spent in maintaining them and their families.

(xi) We wonder if the Government would be justified in spending lakhs of rupees of Indian Tax-payers' money in keeping these sulky indifferent and unwilling colonists in these Islands with a perpetual agitation for their release at home. It will not be possible to improve the economic conditions of the Islands without considerable outlay. If it is possible to find so heavy an outlay, we feel the money could be better utilised in the construction of new jails, in the improvement of existing jails in India, and also in creating a free settlement in the Andamans. We would not, therefore, recommend the expenditure of further sums of money upon the development of the present system of convict settlement.

Climatic and Sanitary Condition.—(i) Andamans have been known from time immemorial as an unhealthy, pestilential and deadly malarial place inhabited by savages roaming about the jungles with which the Islands are richly covered, in a state of absolutely nudity, ever ready to kill at sight with their deadly arrow any human being venturing to intrude on the privacy of their haunts. The Islands are 200 miles from Rangoon and 800 miles from Calcutta and 700 miles from Madras. Though close to the main land of Burma no attempts have been made to colonise them, nor were the Islands unknown to the ancients. They were well known to the Arab and Malay corsairs and indeed many a pirate in olden time had found a safe haven in the many calm creeks and harbours with which the Islands are intersected. The climate of the Islands is enervating and depressing in the extreme.

(ii) The Islands are inhabited by some 6 tribes, *viz.*, the Ongs, Andamanies, Jarawas, Kols and a few others. The aboriginal population has never shown any tendency to increase at any time. Even before the impact of modern civilisation they were not numerous. Even at the present day all the six tribes together do not number more than 6,000 and odd souls.

(iii) The climate has always acted as a check on their growth. The paucity in their increase and the failure on the part of the more virile people of the main land to colonise these extensive and fertile Islands all lead to only one conclusion, *viz.*, these Islands are unhealthy.

(iv) Coming to modern times the settlement as at present was constituted on or about the year 1857 when the Government had a number of prisoners on their hands who were convicted in the Great Indian Mutiny, and who could not be otherwise disposed of. There are many and numerous records to show that the Islands have always been regarded as unhealthy and various attempts seem to have been made to make the place as healthy as

possible. In spite of costly attempts the Islands have remained to this day unhealthy and malarial. The chief cause of mortality is malaria and supervening dysentery brought on by a debilitated constitution and lowered stamina. This is, we believe, one of the reasons which prompted the authors of the Jail Committee Report to recommend to the Government the closure of these Islands as a penal settlement. Indeed when the Jail Committee made its enquiries the then known cause of malaria seemed to have been only *Anopheles-Ludlowi* which bred in the Salt Swamps. So impressed were they with this theory that they proceeded to state in para. 603 of their report, "It is generally agreed that the most important cause of the ill-health which has marked the settlement of Port Blair, is malaria, which, as we have already said, is conveyed by a species of mosquito breeding in the Salt Swamps on the coast. The swamps owe their saltiness to an inflow or infiltration of sea water and therefore exist only near the sea. The mosquito in question breeds only in the saline or brackish water of these swamps and is not found much more than half a mile from them. Had the founders of Port Blair known these facts, they would have placed their buildings a mile or so back from the sea and would thus have avoided this pest, a course which has been followed with fair success in regard to the forest camps in the middle Andaman." Thus the authors of the Jail Committee lost sight of the fact that other malaria-carrying *Anopheles* could breed in greater numbers in the many fresh water swamps, bogs, puddles and pools in which the interior of the Islands abound; and as a matter of fact while considerable sums are spent in draining off the salty marshes, new varieties of malaria-carrying *Anophelines* make their appearance in unexpected quarters thus adding greatly to the difficulties of the officers who are striving to make the Islands free from the disease.

(v) The Senior Medical Officer in the Administration Report of the Penal Settlement for 1922-23 at page 33 states:—

- " 1. Malaria cases mostly occur during the rainy season when other *Anophelines* besides *Ludlowi* are very numerous; *Ludlowi* being a breeder in Salt Swamps has suitable conditions for breeding all the year round: other varieties breed during the rains in fresh water. They are very numerous then, and are practically absent during the dry season. It is during the season of greatest prevalence of other *Anopheline* mosquitoes, besides *Ludlowi* that most cases of Malaria occur.
- " 2. *Pharagoan and School lines*.—Both remote from Salt Swamps showed a considerable number of admissions for Malaria. *Anophelines*—not of *Ludlowi* type—were numerous there.
- " 3. The new barrack at Namunagar, on a site away from the area of operations of *Ludlowi*, showed more cases of Malaria than Dundas Point, situated near Salt Swamps. Every little fresh water puddle near Namunagar

barracks, however, swarmed with *Anopheline* larvæ during the rains.

“ 4. The inhabitants of the Police Lines on Aberdeen, remote from the Salt Swamps, suffered as much from Malaria as the inhabitants of Aberdeen whose houses border the Salt Swamps.

“ 5. Middle Point barracks showed a higher percentage of admissions for Malaria than Navy Bay which is adjacent to a Salt Swamp.”

(vi) Again the Administration Report for the year 1923-24 says at page 41:—

“ In 1922 report it was pointed out that though Ludlowi may still be the chief carrier of Malaria, other *Anophelines* must not be ignored—this year large number of cases came from the areas undergoing clearing and *from newly-built villages not close to the Salt Swamps*, lends force to this fact. Also in Viper District a *fuliginosus* variety, *Nivipes*, made an early appearance in large numbers and this is a known Malaria carrier ”,

and at page 39 it goes further and states:—

“ It is difficult to compare faithfully this year's health with that of previous years' owing to the changed conditions and the transfer of debilitated and sick convicts to the Indian Jails. That it was a bad year for health cannot be gain-said. The factors mentioned in last year's report as accounting for the general improvement in health have,” the Senior Medical Officer states, “ been in operation throughout this year also, but in spite of them the sick-rate and still more the death-rate has gone up considerably. Bowel diseases and Malaira are almost entirely accountable for this increase. Of the bowel diseases causing ill-health, dysentery easily heads the list.”

During visits to the Moplah villages, we found conditions similar to what is stated above existing there. We confess we were not impressed with either the location or the surroundings of the Moplah villages. The villages were scattered hither and thither far away from the hospitals, and far removed from the main artery of the settlement, *viz.*, Aberdeen. The huts are miserable hovels constructed flush with the ground unlike the other buildings, on raised platforms in spite of the Jail Committee's recommendation in paragraph 625 that these houses should be built of planks or other substantial material. The floor of these houses were damp, wet and slushy, and yet these unfortunate women and children had to sleep on them. The women and men all complained that at one time or other without any exception whatsoever they were down with fever. The fever evidently was of a virulent type as it left them completely weak for weeks. We

quite believe their statements. Ill-clad, ill-fed, badly-housed, it is a wonder that these unfortunate people ever survived the attacks of millions and millions of mosquitoes to narrate their woeful tale. In the village of Herbertabad, our colleague Dr. Mugaseth found a number of men actually suffering from fever. There was no medicine for them and there is no conveyance of any sort in that village that could take these fever-stricken people to the hospitals. Only as a last resort are they taken to the hospitals; and in the village of Nayashahr almost all the children had enlarged spleens. These villages are far away from the operations of *Anopheles Ludlowi*. The Moplahs both women, children and men looked pale, ill-fed and emaciated with an hang-dog look about them. Certainly 2 years' stay in these Islands had considerably told on their constitution. They are not the same robust men, one is won't to see in their native homes. The nature of their work, *viz.*, cultivation, does expose them to a considerable extent to wind and rain and unless they are properly fed, clothed, housed and shod, we are afraid they would all fall easy victims to Malaria. The Moplah villages we visited had no wells provided for them and the drinking water was mainly to be had from some polluted jungle stream. The water naturally did not agree with them. There were no latrines. They one and all expressed to us a wish that they should be sent back to the Indian Jails and their wives and children to their respective villages. It appeared to us that they sincerely preferred the thralldom of Indian Jails to the disastrous freedom of the Andamans. It is indeed a pity that in selecting the sites for Moplah villages the local authorities had not the advice and guidance of an agricultural expert acquainted with the Moplah country. The villages as stated above are far away from Aberdeen the chief commercial centre. They are located near Swamps in low valleys close to thick forests. Some of the villages were practically inaccessible so much so we could not visit Hashmatabad. The country we had to traverse to reach these villages was leech-ridden and the feet and legs of almost all the men who accompanied us to these villages were bleeding as a result of these leeches. The decrease in the percentage of Moplah admissions in the Hospitals proves nothing. It is physically impossible for these men, women and children to walk miles with a devastating fever on them to the nearest hospital. As a matter of fact they preferred to remain in the midst of their kith and kin, when they had the fever, to walking miles and staying in hospitals. We made other independent enquiries and they all go to confirm our view that the Islands at present are not a fit place for Moplah women and children.

Moral conditions.—From 1870 onwards it was known to the Officials that the state of morals was shockingly low in the penal settlement and various Officers at different times made different suggestions to remedy this evil. As the authors of the Jail Committee state, the Government of India in September 1914 remarked that the history of the settlement provided ample demonstration of the fact that the moral standard of the community was incapable of improvement so long as the number of women bore so small a

proportion to the number of men, and they themselves finally state in paragraph 552 of their report, "It is not necessary to quote further opinions on this subject in order to establish the fact that the present position of morality in the Andamans is bad and that no reform would have any chance of being successful unless the introduction of an adequate proportion of women was assured." When the above was written the proportion of men to women was 6 to 1.

The publication of the Jail Committee's Report created so much stir, that the Government decided gradually to abolish the penal settlement and convert it into a free colony. We understand that in pursuance of this policy, all the women convicts were sent back to the Indian Jails of their respective provinces and no more women convicts were brought into these Islands thereafter and as a matter of fact the female jail was closed and the building was handed over to the Local School.

The result has been that the proportion of men to women has increased as is seen from the following:—

In Ross District there are 8 villages containing 330 males and 77 females. In Haddow District there are 13 villages containing 284 males and 21 females. In Viper District 24 villages contain 1,124 males and 120 females. In Ross District there are five villages with 133 males and *no females*. In Haddow 6 villages had 518 males and 16 females, and again in Viper District 5 villages had 194 males to 4 females, and the Cellular Jails had 8 males and 3 females. The total is 2,591 males and 241 females. Such was the state of affairs up to 31st March 1913 existing among the self-supporting convicts. There are still 7,000 and odd convicts in the Andamans and the extent of unnatural vice prevailing there is simply appalling. As regards the morals of the free-borns, the picture is no better. The Andamans District Gazetteer of 1908 at page 126 recites as follows:—

"A large proportion of the free-settlers are local-born (*i.e.*) descendants of convicts born in the settlement and permanently resident there. Like every other population, the local-born comprise every kind of personal character. Taken as a class they may however be described thus: as children they are bright, intelligent and unusually healthy."

"As young people they do not exhibit any unusual degree of violence and inclination to theft, but their general morality is distinctly low. Among the girls, even when quite young, there is a painful amount of prostitution open and veiled the result partly of temptation in a population in which the males very frequently preponderate, but chiefly due to bad early associations, convict mothers not being a class likely to bring up their girls to high pitch of morality."

This was the state of affairs in 1908 and the situation to-day as disclosed by our own close observation and intimate enquiries is

worse. Even married women, when quite young, pass hands just like ordinary currency. Under the Andaman Rules and Regulations no lawyer can come or settle in these Islands and advantage was taken of the presence of a Lawyer member in our deputation and quite a number of people came to seek legal advice, about women being married twice and thrice without obtaining divorces, etc.

Several of the free-born told us that they found great difficulty in procuring decent girls for marriage. No self-respecting man would care to marry his daughter to a free-born who carried with him a brand of convicts' son, much less would he consent to send his daughter to the Andaman Islands which to them is synonymous with a living grave. It would appear up till now 1,302 Moplah convicts have been sent to the Andamans of whom 90 had died and 79 had either been released or transferred to Indian Jails; of the remaining 1,133, 754 are labouring convicts, 258 self-supporters living in villages and 121 self-supporters living and eking their livelihood elsewhere.

The settlement contains a goodly number of extremely, comely and young Pathans and the general hunger for women is strong and the competition for the exclusive possession of women for ever so short a time is very keen. We do not wish to dwell further on this most painful and distressing subject. The moral atmosphere of the Islands is demoralising, putrid, foul and shocking. To such an atmosphere and situation of great peril we will never make up our minds to recommend to the Government of India the desirability of importing Moplah women and children, however, desirable it may be from other stand-points. If not for anything else on this ground alone we, as Mussalmans, to whom religion and morality go hand in hand, recommend the abandonment of the Scheme and shall press that the Moplahs be repatriated to the Indian Jails and the women and children sent back to their respective villages in Malabar.

It is indeed a pity that the lesser local authorities never allowed the Moplahs to speak out their minds freely in the way they did to us, when the Hon'ble Sir Alexander Muddiman, Home Member to the Government of India, visited the Island recently. We questioned them on this point and the Moplahs told us that the Tahsildars threatened them that if they ever complained they would be sent back either to the Cellular Jails or to gang work, and out of sheer fear they dared not give free vent to their feelings. We quite believe them, in the light of what we ourselves experienced. In the villages of Mallapuram and Manarghat, the Moplahs were shy of narrating what they had to state in the presence of the Officers and the District Officer when he came to know of this very kindly withdrew with his subordinates thus giving them an opportunity of ventilating their real feelings. The next day a party of 25 Moplahs, it seems, came with some written complaints to be presented to us at our residence in the Circuit House, Ross Island. One of the Tahsildars turned them back and took two of

the party to the Chief Commissioner with instructions to them to make allegations against the Members of the Moplah Deputation to the effect that one or two of them advised them to state that they preferred the Indian Jails as they would get remissions there. Statements to some such effect are said to have been taken from them by the C. C. This is very unfortunate. We had come to the Islands at very great personal inconvenience and pecuniary loss to discharge a public duty. We came with no preconceived notions. We had no axes to grind. We know that owing to the peculiar, social and agrarian conditions prevailing in Malabar a good proportion of the Moplahs were condemned to perpetual poverty. We were anxious, if possible, to relieve the economic pressure in Malabar by advising the Government to send the Moplahs to the Andamans if the place was suited to them; but by a strange irony of fate the local authorities misunderstood our mission and seemed to have viewed our movements with suspicion, with the result that the Chief Commissioner sent a note to us next day that we should interview the Moplahs in the presence of Mr. Meneand, the Jailor, and Mr. Govindan, the Tahsildar; to which we readily consented. Accordingly during the rest of our interviews the Officers were always present. In the village of Manpur, the Moplahs told us in the presence of the abovementioned Officers that they dared not speak out freely as that would amount to making a complaint against the Officials present, that the members of the Moplah Deputation would go back within a few days and that they would have to suffer for their indiscretion; but on the Tahsildar assuring them that no such penalties would be visited on them, they one and all bitterly complained about their lot and the difficulties they had to contend.

Finally we cannot conclude our report without placing on record our deep sense of gratitude to the Chief Commissioner, the Deputy Commissioner, Revenue Assistant Commissioner, the Tahsildar assuring them that no such penalties would be visited on them, courtesy and for the trouble and pains they took to make our stay in the Islands as pleasant and comfortable as possible.

We beg to remain,
Your most obedient Servants.

ABBAS ALI KHAN.
S. MURTAZA.
MAHMUD SCHAMNAD.*

ADDITIONAL NOTES.

While fully endorsing the views mentioned in the joint report I wish to add the following notes.

* Subject to additional notes.

The letter of the Government of India, Home Department, No. F.-188/24-Jails, said to contain the terms of reference, will be found in Appendix A.

1. No committee seems to have been appointed to enquire, nor does any proper investigation seem to have been made into the conditions in the Andamans before the Indian Jails Committee was appointed in 1909. This Committee composed as it is of eminent men of varied experience and vast knowledge of prisons went into the questions of Jail administration, transportation and the conditions in the Andamans so thoroughly that they produced a clear and exhaustive report which has, I think, to be considered an authoritative document on the subject. The Committee has come to the conclusion that the Andamans as a place of transportation for prisoners should be abolished.

2. Port Blair consists of several villages within a distance of 10 to 15 miles in the Southeast corner of South Andaman. The Chief Commissioner lives at Ross, a small island at the mouth of the harbour. Across the channel on the main island at a distance of less than half a mile lies Aberdeen which is the chief place of business in the Andamans and almost the only bazar in the islands.

3. The villages in which the Moplahs are settled are in the interior in the midst of thick forests, some of which are frequented by the hostile Jaravas, who take pleasure in killing any stranger they meet and the casualties include Moplahs also. Most of the agricultural lands allotted to the Moplahs are miry, low-lying, unhealthy valleys covered generally with bushes and shrubs and sometimes big trees also which they have to clear and level before bringing it under cultivation.

4. On the 5th of December we visited in the company of Mr. Robertson, Western District Officer, Mr. Heath, Jailor and the three Tahsildars one of them being a Malayalee, the villages of Mannarghat, Malappuram and Knappuram. As soon as we reached Mannarghat the Moplahs there young and old, men and women, all came to us with tears in their eyes and told us that they have been told not to tell us anything about their difficulties and therefore they were afraid to make their representations in the presence of the officers. As soon as Mr. Robertson who appeared to be a quite disinterested and impartial officer came to know of this, he called the other officers away and allowed the Moplahs to explain to us their grievances when one and all of them told us that the place was very unhealthy, all of them had fallen ill and were feeling weak on account of Malaria, and several of them had enlarged spleen although most of them had scarcely fallen ill in their own homes. We explained to them that there is no chance of their being released, and we have no power even to recommend their release and it would be better for them to work on those fields and live there with their families enjoying the liberty they had rather than be kept within the four walls of the Jails in India. It may be even the Bellary Jail which is noted for its cruel treatments as some of you might have already experienced. They repeatedly

told us that they would prefer any other place in India to this and therefore their prayer was that they might be transferred to any jail in India.

5. In Mannarghat and Knappuram also similar tales were told. The people here also affirmed their desire to be transferred to any jail in India. In the evening we returned to the Circuit House.

On the 6th we visited Calicut village in the company of two Tahsildars one of them being the Malayalee.

On the 7th we visited the villages of Muslim-basti, Manpur, and Herbartabad. Here we were accompanied by Mr. Meneand (Jailor) the Malayalee Tahsildar and another Tahsildar.

On the 8th we visited Nowshahr and on the 9th morning we went to the Saw Mill on the Chatham island and saw some self-supporting Moplahs who were working there.

6. The prayers of the Moplahs were everywhere the same. They wanted to be transferred to some Indian Jail. Though we put to them the two alternatives of going to Indian Jails or of remaining in these villages with all the irksome taxes and other restrictions removed, yet they said they preferred going to the Indian Jails.

7. On the 6th there was an incident. On our way to Calicut village we had to pass along a convict station at Middle point and one of us suggested that some of the Moplah convicts there might be questioned whether they would like to take self-supporter's ticket and settle in villages. Because the labouring convicts of to-day are the self-supporting villagers of to-morrow. So we asked one of the Tahsildars—accompanying us to get the necessary permission. But we were told that permission could be obtained by the time we return from Calicut village. Therefore we stopped the Motor lorry on our way back from Calicut at the gate of the Middle point station and being told that permission had been obtained, got down from the lorry. While we entered the gate we saw the Moplah convicts there standing in a line. But we did not ask them to fall in. Within about 2 minutes of our arrival there, the Chief Commissioner who happened to pass by, entered the station while some of us were questioning a few of the Moplah convicts of whom there were more than one hundred there. The Chief Commissioner told us that it was not within the scope of our enquiry our terms of reference relate only to the Moplahs in the villages and he would like to discuss with us the question on the 7th.

8. On the 7th evening, however, we got an urgent letter asking us why we entered the Middle point station when our terms of reference did not include this. This letter and my reply to it are given in Appendix B. I had asked in the reply to allow us to see at least one more convict station and at least one Hospital. But that request also has been disallowed by the Chief Commissioner, as will be seen from the 2nd letter in Appendix B.

9. Although special care was taken by the Tahsildars on the 6th, 7th and 8th, yet only the village Headman and 2 others in

Herbertabad, 2 in Muslim Basti and one in Manpur told us that they did not wish to be transferred to the Indian Jails. These 5 also did not want to remain if others were to be transferred. But these were specially brought before us by the Malayalee Tahsildar, Mr. Govindan.

10. I had written to the Chief Commissioner to supply us a copy of Major Murray's evidence, the Andaman and Nicobar Manual, the Andaman Administrative rules or circulars and some figures, etc., for the purpose of making our enquiry more thorough. Although he supplied to us some figures we were not allowed the use of the other records. This letter and the reply of the Chief Commissioner will also be found in Appendix B.

11. As soon as the convicts are sent to the Andamans for some months,—now generally three—they are kept in prisons or Cellular Jails, and then they are removed to different convict stations or barracks. Here they are given daily rations and employed in making roads, clearing forests and doing the different kinds of menial work in the houses of the officials, etc. In addition to the rations they are given at the rate of from As. 8 to Re. 1 per month. Though the daily ration ought to consist of 24 ounces of rice, 4 ounces of dhal, $\frac{1}{2}$ an ounce of mustard oil, 1 ounce of salt and masala yet very often most of them do not receive as much.

12. Some times some deserving labouring convicts receive tickets of leave and are allowed to live in some particular places as self-supporters and when the Government wants to employ them they are paid at the rate of Rs. 11 per month. Although this amount is not at all sufficient in a place like the Andamans where everything is very dear.

13. When these poor Moplahs fall ill and are admitted into the hospitals they are to pay at the rate of Rs. 8 per month for the number of days they remain in the hospitals. If they die, their dead bodies are taken to the hospitals subjected to post-mortem, and given to the Thoties for burial—thereby depriving them from burying their dead according to their religious rites. If one has to go out of his village he has to get a permit. I have also been told that if a self-supporting woman has to deliver she is forced to do so only in the hospital. If one wants to marry both the contracting parties have to undergo medical examination and get the permission of the Medical Officer. The Chief Commissioner, however, told me that most of the restrictions that we found were remnants of olden days. He could abolish some of them himself, some others for which he requires the sanction of the Government of India, he had already recommended to the Government and he was only awaiting their orders.

14. Though the Jail Committee have strongly expressed their opinion, that the future of the Andamans as a penal institution should not be decided on the basis of the actual or potential value of the islands as a commercial or industrial proposition yet the present tendency is to make use of the convicts for exploiting the resources of the islands by inducing the convicts to colonise. It

is complained that in consequence of this tendency very difficult work is assigned to labouring Moplah convicts in order to induce them to bring their families and settle in the villages. To those who agree to so settle, self-supporters tickets are given and some lands assigned in one of the outlying villages.

Before concluding these notes, I wish to make it clear that we have no complaints against the officers; the Chief Commissioner seemed to be very kind and sympathetic to the Moplahs. It is the system we are blaming. They are bound by the system and the rules which are scarcely revised.

MAHMUD SCHAMNAD.

APPENDIX A.

Letter containing the terms of reference.

FROM T. SLOAN, ESQUIRE, I.C.S., DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA, HOME DEPARTMENT, TO MAHMUD SCHAMNAD, SAHIB BAHADUR, M.L.A., No. F.-188/24-JAILS, DATED THE 26TH NOVEMBER 1925.

I am directed to inform you that the Government of India have been pleased to agree to your proceeding to the Andaman Islands to examine the conditions and circumstances of the Moplah villages recently established in the Islands.

2. The Government of India will be glad to receive from you as soon as possible after your return to India any recommendations or suggestions that you desire to make in regard to the Moplah settlements.

APPENDIX B.

First letter referred to in paragraph 8 of my notes.

FROM LIEUT.-COL. M. L. FERRAR, C.I.E., O.B.E., I.A., CHIEF COMMISSIONER, ANDAMAN AND NICOBAR ISLANDS, TO MR. MAHMUD SCHAMNAD, SAHIB BAHADUR, M.L.A., No. 3787, DATED THE 7TH DECEMBER 1925.

I desire to draw your attention to the Government of India (Home Department) letter No. F.-188/24-Jails, dated 26th November, which was delivered to you on Saturday afternoon the 5th instant and a copy of which was sent to me by Government. The terms of reference are clear and relate only to the Mapilla villages recently established in these Islands. I would accordingly be glad to be informed by you why you entered Middle Point Station on the afternoon of the 6th instant and held a parade of the labouring convicts there.

2. I would be glad to know whether you have visited any other convict barracks and whether you have conducted any enquiries among labouring convicts other than at Middle Point.

3. I would ask you to favour me with an immediate reply.

My reply to the above referred to in paragraph 8 of my notes.

FROM M. SCHAMNAD, M.L.A., KASARAGOD, TO LIEUT.-COL. M. L. FERRAR, C.I.E., O.B.E., I.A., DATED THE 8TH DECEMBER 1925.

With reference to your letter No. 3787, dated 7th December 1925; I have the honour to inform you that although we had no definite Terms of reference, the question referred to us seems to me to be very comprehensive in scope. We are required in my opinion to inquire and find out the suitability of the Andamans for Mopla settlement. For telegram (Home Department, Government of India) sent to me after the letter dated the 26th November 1925 referred to by you in your letter says that our inquiry is about the question of Mopla settlement. The first letter informing me about the appointment of this deputation and asking us to sail by the S.S. "Maharaja" on the 2nd November from Calcutta, sent to me by the District Magistrate of Malabar, stated that this deputation was appointed in accordance with the resolution of the Madras Legislative Council, which was to the effect that the scheme of colonising the Andaman Islands with Moplas should be suspended pending the report of the committee to be appointed to investigate the question.

Home Department telegram, dated 26th October 1925 sent to me, also refers to this resolution of the Madras Legislative Council, as the cause for arranging for this deputation.

Under the circumstances I am of opinion that in order to find out the suitability of the Andamans for Mopla settlement, it would be necessary to inquire both from Mopla self-supporting and labouring convicts as well as others, the different questions connected with the same.

Although Home Department letter above referred to (F.-188/24, dated 26th November 1925) mentions only examining the conditions and circumstances of the Mopla settlements, yet I am of opinion that in order to find out this we will have to inquire the same both from self-supporting and labouring convicts.

As regards our going to the Middle Point station I have to inform you that while we were going to visit Calicut village on the representation of some one, one of us desired to inquire the question from the Mopla convicts there. Then another member of the deputation asked the Tahsildar accompanying us to get the necessary permission, and the Tahsildar said that the permission may be obtained before we return. On our return we were told permission had been obtained and we saw the convicts there stand-

ing in a line. We never asked them to fall in. Then we got down from the lorry, went towards those men and inquired from 3 or 4 persons. Within about 2 minutes of our arrival there, you happened to pass by. This is all that took place there. We did not visit any other convict barrack. But we wanted permission to visit one more convict barrack also, preferably the Ross barrack. I am still of opinion that for the purpose of arriving at a correct conclusion, it would be necessary to visit barracks and hospitals also. Therefore I would request you to give permission to visit the Ross barrack and hospital to-morrow morning.

We did not hold any special inquiry among labouring convicts except hearing what some of them represented on our way, etc.

Chief Commissioner's reply referred to in paragraph 8 of my notes.

LETTER FROM LIEUT.-COL. M. L. FERRAR, C.I.E., O.B.E., I.A., CHIEF COMMISSIONER, ANDAMAN AND NICOBAR ISLANDS, TO MR. MAHMUD SCHAMNAD, SAHIB BAHADUR, M.L.A., DATED THE 9TH DECEMBER 1925.

Your letter of 8th instant. Neither the barracks nor the Hospital at Ross have any connection with Mappilla Agricultural self-supporters and accordingly there is no object in your party visiting them.

I can arrange for you to visit Chatham Mill during working hours. You will be able to speak to a few Mappilla self-supporting workers there. Please let me know whether 12 o'clock would suit you to leave Ross Jetty. Messrs. Abbas Ali and Muga Seth could go from Major Barkets by lorry and return in the launch with you.

My letter referred to in paragraph 10 of my notes.

LETTER FROM MAHMUD SCHAMNAD, M.L.A., KASARAGOD, S. K., TO THE CHIEF COMMISSIONER, ANDAMAN AND NICOBAR ISLANDS, DATED ROSS, THE 7TH DECEMBER 1925.

Would you kindly have the following information supplied to me and oblige—

- (a) The number of Moplah prisoners brought to the Andamans in 1921, 1922, 1923, 1924 and 1925 respectively.
- (b) The number of Moplah prisoners who died in the Andamans in 1921, 1922, 1923, 1924 and 1925 respectively.
- (c) The number of self-supporting Moplah convicts that are now in the several villages of the Andamans respectively.
- (d) The number of relations and dependents of those prisoners in the several villages respectively.
- (e) The number of Moplah labouring convicts in the different convict stations respectively.

- (f) Major Murray's evidence before the Jail Committee.
 (g) The Andaman and Nicobar Manual and the Andaman administration rules.

The reply referred to in paragraph 10 of my notes.

FROM LIEUT.-COLONEL M. L. FERRAR, C.I.E., O.B.E., I.A., CHIEF COMMISSIONER, ANDAMAN AND NICOBAR ISLANDS, TO MR. MAHMUD SCHAMNAD, SAHIB BAHADUR, M.L.A., ROSS, No. 3827, DATED PORT BLAIR, THE 8TH DECEMBER 1925.

In reply to your letter of 7th instant, I have the honour to say that the volume containing Major Murray's evidence before the Jails Committee is marked "for official use only" and that I do not accordingly feel myself at liberty to let you see it. In any case the opinions offered by any witness to that Committee relate to conditions which for the most part have undergone a radical change in the past five years.

2. The Andaman and Nicobar Manual has been superseded by the Andaman Administrative Circulars only a few portions of which relate to self-supporters in villages. I or my officers will be glad to supply any information regarding these that you require.

3. The remaining information asked for is supplied to you herewith.

	1922.	1923.	1924.	1925.	Total.
Mapilla convicts brought to the Andamans.	1,277	5	1	19	1,302
Mapilla convicts who died in the Settlement:—					
Labouring convicts	10	29	29	14	90
Self-supporters in villages . . . .	...	1	2	4	
Self-supporters elsewhere . . . .	...	...	...	1	
Deaths among convict Mappilla population (per mille).	7.82	23.58	25.74	15.44	18.14 (average).
Mapilla convicts released or transferred to Indian jails.	...	...	...	...	79
Mapilla convicts now in the Settlement—					
Labouring convicts . . . .	...	...	...	754	1,133
Self-supporters in villages . . . .	...	...	...	258	
Self-supporters elsewhere . . . .	...	...	...	121	
Number of relatives and dependents of Mapilla self-supporters now in the villages—					
Wives . . . . .	...	...	...	130	468
Children . . . . .	...	...	...	226	
Other relatives . . . . .	...	...	...	112	
Number of dependents of Mappilla self-supporters who have died in the Settlement—					
Males . . . . .	...	...	2	...	5
Females . . . . .	...	...	2	...	
Children . . . . .	...	...	...	1	

Deaths among convict population (other than Mappillas) in the Andamans.

Year.	Per mille.
1922	17.74
1923	29.24
1924	30.92
1925	23.07

My last letter written in compliance with the Chief Commissioner's request to put in writing some of the minor grievances of the convicts.

FROM MAHMUD SCHAMNAD, SAHIB BAHADUR, M.L.A., TO LIEUT.-COLONEL M. L. FERRAR, C.I.E., O.B.E., I.A., CHIEF COMMISSIONER OF ANDAMAN AND NICOBAR ISLANDS, DATED ROSS, THE 9TH DECEMBER 1925.

In accordance with the conversation we had this morning I am writing the following minor grievances of the convicts, that have been represented to me—

- (a) The convicts have to pay taxes for their huts, cows, goats, and other animals.
- (b) If any one of them dies, his body is invariably taken to the hospital and subjected to post-mortem.
- (c) If any self-supporting woman has to deliver, she can do so only in hospital.
- (d) If one has to go to the next village, he can do so only with a permit from the village headman.

Hoping these grievances will be redressed.

APPENDIX III.

The Government of India's Resolution No. F.-188—24, dated the 4th October 1926.

No. F.-188/24-JAILS.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

JAILS.

Simla, the 4th October 1926.

RESOLUTION.

In paragraph 8 of the Home Department Resolution No. F.-20/26-Jails, dated the 27th February 1926, it was stated that the

report of the four gentlemen who had been granted special facilities to visit the Andamans in December 1925, to see for themselves the conditions in which the Mappilla settlers lived there, would be carefully considered by the Government of India when received. The deputation, consisting of Messrs. Mahmud Schamnad Sahib Bahadur, M.L.A., Syed Murtaza Sahib Bahadur, M.L.A., Mir Abbas Ali Sahib Bahadur, M.A., LL.B., Bar.-at-Law, M.L.C. and Dr. K. D. Mugaseth, L.M.S., sailed from Calcutta for Port Blair on the 1st December and left the Islands on the 9th December 1925, after visiting the various Mappilla villages in the settlement. The deputation was afforded every facility by the local authorities with regard to the Mappilla convicts.

2. The reasons which led the Government of India to sanction the temporary reopening of the penal settlement for Mappilla convicts in modification of their declared policy of closing down the penal settlement as soon as possible, do not appear to be generally known and it would therefore not be amiss to state them here. In 1922 the Government of India permitted, as a special measure, the transfer of Mappilla convicts to the Andamans to relieve the congestion in jails in the Madras Presidency, which were taxed to their utmost capacity by the large number of convictions in the Malabar Rebellion. The local authorities in the Andamans found that the Mappillas made good settlers, and, as the climate of the Andamans was similar to that of Malabar, and the conditions governing the grant of land better than those prevailing in Malabar, the Mappilla convicts were encouraged to remain on in the Islands either as self-supporters or labourers in the Forest Department or on plantations leased to private capitalists. In all cases they were paid a sufficient wage or given enough land to cultivate to enable them to support themselves. They were given rations for themselves and their dependents and were granted loans to purchase cattle and agricultural implements. Mosques were built out of funds provided by the Madras Government and educational facilities were afforded for their children. The Governor General in Council was warmly interested in these proceedings, which offered Mappilla convicts the chance of a free life and re-habilitation in new surroundings in exchange for the confinement and monotony of an Indian jail.

3. In order that these Mappilla settlers should not be denied the amenities of family life and as it is at the same time essential for a settler in the Andamans to have his wife and family with him, Government offered to assist those of the Mappilla convicts who desired to have their wives and families with them, by bringing them from India at Government expense. This endeavour on the part of the Government to contribute to the comfort of the Mappilla settlers was, however, misunderstood and it was falsely represented that the Andamans were a most unhealthy spot and that the families of these convicts were being removed from Malabar in the interest of the Nairs who were anxious to get rid of the Mappillas from Malabar.

4. To remove these and other misconceptions in regard to the Andamans generally the Government of India decided to offer faci-

lities to four non-official gentlemen to visit the Andamans and see for themselves the conditions in which the Mappilla convicts were living there with their families. This offer was not as readily accepted as Government had anticipated. The Hon'ble Sir Alexander Muddiman, Member of the Executive Council of His Excellency the Governor General, therefore decided to take an early opportunity of visiting the Islands himself. In the course of his tour through the settlement in November 1925, the Hon'ble Sir Alexander Muddiman was particularly impressed with the good villages which these Mappilla settlers had built themselves and the general air of contentment and well-being that pervaded them. The appearance of their villages, of their schools and of their fields convinced him that it would be a misfortune to upset so promising an experiment. The only petition which the Hon'ble the Home Member received in the course of his tour asked that more land should be given and that permission should be given to those who had not already done so to import their families.

5. The visit of the Hon'ble Sir Alexander Muddiman facilitated the consideration of certain measures which were under the consideration of the Government of India and have since been given effect to. These measures, which have contributed immensely to the moral and material welfare of the convicts, included the introduction of a liberal system of remissions which gives all convicts (other than professional prisoners, whose cases are under consideration at present) a definite hope of release, the promulgation of the Andaman and Nicobar Islands Land-tenure Regulation, III of 1926, which confers security of tenure on small as well as large holders and enables convicts to acquire occupancy rights on release, and a dredging scheme, sanctioned at a cost of 4½ lakhs, for filling in the swamps round the settlement in which the malaria-carrying mosquitoes breed.

6. In addition to the salutary measures referred to above the Government of India had hoped that the gentlemen to whom they had granted facilities for visiting the Andamans would assist them with helpful suggestions for the welfare of the Mappilla colonists; but they regret to have to record their sense of disappointment.

7. Two reports were presented to Government by the members of the Deputation, one by Dr. Mugaseth, the other by the three remaining members, and these are now published for general information. On the former it is not necessary to comment at length. The report appears to them to be an impartial account of the impressions gained in the course of the Deputation's visit. On occasions it shows evidence of a certain misapprehension of facts, and the Governor General in Council is not able to accept the recommendations in their entirety. His Excellency in Council however regards the minority report as a valuable contribution to the study of the question and takes this opportunity of thanking Dr. Mugaseth for the care and ability which it evidences.

8. The report signed by the majority is unfortunately a document of a different character and is largely vitiated by the in-

accuracy of the premises on which its recommendations are based. It contains much that is of a misleading nature, but the Governor General in Council will confine himself on this occasion to referring to some of the more important points raised.

(a) The report asserts that, excepting paddy and an inferior variety of sugar-cane, nothing of any commercial importance grows on the Islands (excluding timber which is a Government monopoly), that the bare necessities of life have to be imported from India and that there are neither openings for nor immediate prospects of indigenous internal trade developing.

These allegations are not borne out by Dr. Mugaseth in his report and are in fact far from justified. The soil and climate are akin to that of Malabar and the same crops can be grown. With a view to raising the standard of agriculture Government have appointed an Agricultural Adviser, and any self-supporter of energy and capacity can become well-to-do.

(b) It is next alleged that there are no villages of the type seen in India, that the elements of ordinary village life are absent and that Mappillas, men, women and children looked pale, ill-fed and emaciated.

These statements form a contrast to the report of Dr. Mugaseth and are largely imaginative. In fact the settlers have as a rule built themselves good villages, which are grouped together and complete in themselves, and give the Mappillas every opportunity of living a normal village life under the guidance of headmen of their own race and choice.

The suggestion that the period of residence in the Andamans had told adversely on the colonists' health is directly contrary to the facts. When the Mappilla settlers began to arrive most were men of poor physique and in an indifferent state both of mind and body. Their physical condition was overhauled on arrival, their latent malaria was treated, they were freed from hook worm, which most of them harboured. Regular work, generous diet and daily bathing led to a general improvement of health. In view of the statements in the majority report the men of the Mappilla villages were again weighed. In one village there was no increase or loss of weight. In all the remaining 7 villages there was an average increase of weight varying from one to over six pounds.

This is a fact that cannot be reconciled with the sweeping statements in the report as to general ill-health and emaciation.

(c) It is stated that the women complained that they had been lured to enter the Islands by false promises, that the rations given were neither liberal nor good and that the women were driven to supplement their needs by selling their rations and seeking employment in distant villages.

These are seriously incorrect statements. The facts are that some of the wives of convicts refused to come without their mothers and other relatives and the Chief Commissioner granted permission expressly for them to come to the Andamans. Up till December,

1925, when cash allowances were substituted, rations, including both fish and meat, were granted on a liberal scale, not only to the convicts but also to their dependents, and the administration definitely accepts responsibility for feeding both convicts and their dependents who are unable to support themselves. If rations were sold (Government had previously no knowledge of this practice) the fact itself suggests that they were granted on a liberal scale. The women have enough employment in their own homes and on their husband's holdings and have no necessity to go out in search of employment.

(d) The report severely condemns the sanitary conditions and the medical arrangements for the sick.

In fact well equipped medical facilities are available within a few miles of every village, while motor lorries are constantly running between villages with orders to remove the sick promptly to the nearest hospital. The facilities are thus probably better in the Andamans than in a large number of villages in Malabar. In addition to this, every village Chaudhri has quinine and purgative mixtures for use in emergencies. The villages are frequently visited not only by the Medical Officer but also by the District Officers. It is stated that the Mappilla villages are miserable hovels, but Dr. Mugaseth says " Their huts made of bamboo and thatched with palm-leaves compare very favourably with the huts (Chettapuras) we find about Kundungal and Valayil in Calicut ". The Medical Officer, who has himself taken shelter in these huts during the rains, reports that they are warm and dry. The floors inside are raised two feet above the outside level and are made of stone and clay well rammed down with walls of about 3 feet of mud. Malaria is now on the decrease, and the Chief Commissioner is taking steps to have proper wells sunk so as to increase the supply of pure water.

(e) The paragraph headed ' Taxation ' includes a singular number of misstatements which a reference to the local authorities would quickly have corrected. The taxes payable by Mappilla convicts are enumerated; but collection is remitted when it is likely to cause hardship and actually, up to date, no Mappilla has paid one pie in taxation. The cost of thatching leaves is (incorrectly) stated; but the authors of the report had apparently not ascertained that the Mappillas are able to cut as many as they require for themselves with no cost and even to sell the surplus. The authorities show every consideration in recouping taccavi loans. Postponements are freely allowed, and it is significant that one Mappilla only has so far paid an instalment. The statement that when a bullock dies no further loan is given is inaccurate. When in 1925 cattle disease broke out the value of the deceased animals was written off and fresh loans granted, so that no man's indebtedness was increased and no man was left without the means to plough his field.

No less misleading is the statement that convicts in the Andamans are denied the remissions granted in Indian jails. Under

existing rules about 60 per cent. of the Mappillas will be free men in 7 years and most of the remainder in 14 years.

(f) The statements in the report as to moral conditions are so grossly exaggerated that they defeat their object. It has always been recognised that a disproportion in numbers between men and women tends to immorality; but the figures quoted by the authors of the report relate to convict men and women only, and the disproportion is much less among the Mappilla settlers. When the Hon'ble Home Member visited the Islands last November he found the male population of the Mappilla villages to be 284. 45 of these were unmarried. Of the 239 married men 92 had wives in Malabar. The remaining 147 had their wives living with them as well as families totalling 259 children and 56 other relations. Provided no obstacle is placed in the way of Mappilla women now in Malabar joining their husbands what disproportion there is will quickly diminish and disappear.

(g) The Government of India have carefully considered the statements as to a universally expressed desire among the Mappillas to return to jails in India and to send their wives back to their native districts. As has been seen no such request was made to the Hon'ble Home Member, who visited the villages a few weeks before the arrival of the Deputation, and within a week of Deputation's departure forcible protests were made to the local authorities against the idea of separation from their families and return to jail. An enquiry was made in April as to the wishes of the men concerned. Of 135 men whose families were with them in the Islands 13 men wished to send back to India 10 mothers, 2 wives, 4 children and 4 other relations. Of 110 men whose families are in Malabar all asked to have their wives and the majority their entire families. Applications are pending from four parties of labouring convicts, 20 to 25 men in each, asking permission to found new villages and settle with their families.

These facts do not suggest that the Mappillas as a whole desire to return to jail. Statements appear to have been made to the Deputation which did not accord with the views expressed by the men concerned before and since, and it seems probable that the activities of the Deputation appeared to them to offer the hope of absolute release and return to their homes as free men. When it became clear that the alternative to life as a settler in the Andamans was separation from wife and family and life in an Indian jail the great majority realised that the Andamans provided more attractions.

The Governor General in Council has, however, no wish to detain any of these men in the Andamans against his will, and, as will be seen below, has decided to place the colonisation scheme in the future on a purely voluntary basis.

9. Much else has been said in the report to which objection might properly be taken, and there are many further allegations which it would be easy to refute. But the Government of India consider that enough has been said to show that the reckless state-

ments with which it abounds indicate a neglect on the part of its authors to ascertain the true facts of the case. The Government of India therefore regret that they are not able to attach as much importance to its conclusions as would otherwise be the case. Nevertheless the whole position has been re-examined and any suggestion in the report that appears calculated to improve in any way the settlers' chances of independence and a self-respecting life will be carefully considered; but the Governor General in Council remains convinced that the Colonisation Scheme is the most humane solution of the problem how to deal with those who, at a time of fanatical excitement, were led into committing serious crimes against the State by the inflammatory utterances of political leaders. His Excellency in Council cannot allow political considerations again to intervene to their disadvantage and bring about their relapse to the position of ordinary convicted criminals.

10. Recognising, however, that public opinion may for a time be mislead and perhaps agitated by the unfounded charges levelled against the administration, the Governor General in Council has decided to define his future policy in such a way as to show once and for all that Government have throughout had no other consideration in mind than the interests of the convicts themselves. For the future His Excellency in Council has resolved that the Mappilla Colonisation Scheme shall be regulated by the following principles:—

- (i) The Mappilla colonisation scheme will continue on its present lines, but on a voluntary basis;
- (ii) Any of the present Mappilla settlers in the Andamans who wish to return to jails in India and to send their wives and families back to Malabar will be allowed to do so;
- (iii) Long term Mappilla prisoners now in jails in India will be given the option between remaining in jails and taking up the freer life of a settler in the Andamans. Prisoners who may volunteer hereafter to go to the Andamans will also have the option, after they have been in the Islands for one year, of returning to jails in India and sending their wives and families back to Malabar;
- (iv) Where Mappilla convicts have chosen life in the Andamans and wish to have their wives and families with them, Government will arrange to convey their wives and near relations to the Islands. Able-bodied relations will be required to earn their own living after the first month.

ORDER.—Ordered that the resolution be published in the *Gazette of India* and that a copy be forwarded to the Government of Madras and the Chief Commissioner, Andaman and Nicobar Islands for information.

H. G. HAIG,

Secretary to the Government of India.

**THE EXISTING CONSTITUTION OF THE PRO-
VINCE OF COORG AND ITS OPERATION.**

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APPENDIX.

Rules relating to the Coorg Legislative Council.

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The Existing Constitution of the Province of Coorg and its Operation.

Descriptive.

1. The province of Coorg which covers an area of 1,582 sq. miles and contains a population of 163,838, is roughly commensurate with a sub-collectorate of the adjoining province of Madras. The Coorgs or Kodagus, from time immemorial the lords of the soil, number about 44,000. They form the largest compact unit and are strikingly Rajput in characteristics. They have their own language, their own religion, their own national dress and their own system of land tenure.

The province was annexed on the 7th of May, 1834. The proclamation then issued by Lord William Bentinck runs as follows:—

“Whereas it is the unanimous wish of the inhabitants of Coorg to be taken under the protection of the British Government, His Excellency the Right Honourable the Governor General has been pleased to resolve that the territory heretofore governed by Virarajendra Woodyar shall be transferred to the Honourable Company.

The inhabitants are hereby assured that they shall not again be subjected to native rule; that their civil rights and religious usages will be respected; and that the greatest desire will invari-

ably be shown by the British Government to augment their security, comfort and happiness ”.

The country was then constituted into a separate province under the direct control of the Government of India. An officer with the title of Superintendent of Coorg was appointed as chief local authority and was invested with criminal, civil and revenue powers, the duty of supervising his administration being assigned to the Commissioner governing the adjoining country of Mysore. This arrangement continued until the Mysore State was made over to the Maharaja in the year 1881, when the newly appointed “Resident in Mysore” was entrusted with the duties previously discharged by the “Commissioner for the affairs of Mysore and Coorg”, his official style being changed to “Chief Commissioner of Coorg”. The title of Superintendent was at the same time altered to Commissioner. Since 1881 there has been no radical change in the main outlines of the administration except in 1924 when a Legislative Council was granted to the province.

The province is under the control of the Chief Commissioner, in direct subordination to the Government of India. In his person are combined the provincial functions discharged in other provinces of India by the local Government and the High Court. As Chief Commissioner he is the controlling revenue authority, the Inspector General of Police and Prisons, and the supreme local head of the Public Works, Educational, Medical, Registration and other miscellaneous departments, while as Judicial Commissioner he is the highest civil and criminal court in the province. He is assisted in his work by a secretarial establishment located in Bangalore and controlled by the Secretary to the Resident, who, in that capacity, bears the style of “Secretary to the Chief Commissioner of Coorg”. In the province itself the chief local authority is the Commissioner, whose headquarters are Mercara, and whose duties extend, practically to every branch of the Administration.

The superior officers employed in the province are generally taken from the Madras cadres, while the province has its own cadres of provincial and subordinate services. The Accountant General, Madras, is the account and audit officer for the province of Coorg.

Local self-government has not progressed far in the province nor is there any real demand for its extension. There is a single district board for the whole province outside the Municipal areas.

It is presided over by the Commissioner and was originally constituted by nomination. But in 1926, that is to say, two years after the Legislative Council had been set up, the elective principle was introduced. The district board now consists of 13 elected members, 5 *ex-officio* Government members and 2 members nominated by the Chief Commissioner to represent minorities and backward classes. The elected members are returned from electoral areas which are sub-divisions of the electoral areas for the Legislative Council forming single-member constituencies. The franchise for the district board is, save in one insignificant particular,

identical with the franchise for the Legislative Council; but the constituencies are not arranged separately according to *jama* and *non-jama* tenures as in the case of the Legislative Council constituencies. *Jama* and *non-jama* holders vote in the same constituencies. There is an elected Vice-President. The annual income is approximately Rs. 1,40,000.

Only the towns of Mercara and Virajpet are large enough to warrant the grant of municipal powers. These two municipalities have elected non-official Presidents and Vice-Presidents. The Mercara municipality consists of 16 members, of whom 12 are elected non-officials and 4 are officers of Government sitting *ex-officio*. The Virajpet Municipality consists of 14 members, of whom 10 are elected non-officials and 4 are officials. The former municipality controls an income of approximately Rs. 24,000 and the latter Rs. 15,000.

The demand of 1917 and the decision of the authors of the Report on Indian Constitutional Reforms.

2. The people of Coorg are educationally well advanced and have seldom in recent years been free from political aspirations. These aspirations found expression for the first time in an address* which was presented to His Excellency the Viceroy and the Secretary of State for India in 1917 by the Coorg Landholders' Association, on behalf of all the inhabitants of the Province.

In that address they asked that such reforms as were introduced elsewhere should be extended to Coorg. The feeling at that time was against amalgamation with Madras and the recommendations made in their address, in addition to various changes in the internal administration of the province, included the constitution of a representative assembly of 30 under the Chief Commissioner and an Advisory Council of 15 elected by the Assembly. That suggestion did not commend itself to the authors of the Report on Indian Constitutional Reforms, for in paragraph 198 of their Report they treated Coorg as one of those areas where the principle of responsibility cannot yet be applied. They laid on the Government of India, however, the task of considering whether it would be well to associate with the personal administration of the Chief Commissioner some form of Advisory Council adjusted in composition and functions to local conditions.

Discussions after the publication of the Report on Indian Constitutional Reforms.

3. The very limited proposals of the Joint Authors for constitutional advance in Coorg naturally caused some disappointment to the people of the province. Amalgamation with Madras which had in the past been frequently represented as fraught with grave danger to their nationality was proclaimed as preferable to the exiguous measure of reforms adumbrated in the Report. At a conference of officials and non-officials, representing various communities and interests, held in February 1919, a demand was put forward for a provincial council of 30 members. The council was to have the power of discussing all legislative projects affecting the province, Imperial or local, of asking questions, of passing

* Page 57 of the Volume containing Addresses presented in India to His Excellency the Viceroy and the Right Honourable the Secretary of State for India—Cmd. 9178 of 1918.

resolutions on matters of provincial interest and of discussing the budget. It was recommended that the Council should be created under section 3^c of the Government of India Act, 1912, in order that legislation on local matters might be passed by the Council subject to the veto of the Chief Commissioner and the Governor-General in Council. It was further recommended that if a division of subjects was introduced on the lines of dyarchy, resolutions on the budget demands for transferred subjects should be binding. The treatment of this demand and of the recommendation of the Joint Authors was mixed up with discussion of the arrangements suitable for other centrally administered areas. But eventually the conclusion was reached that the introduction of the dualised system of government adopted in the case of the larger provinces would be entirely unsuitable to the circumstances of Coorg, besides imposing an intolerable burden on provincial finances. At a later stage the further conclusion was reached that the power of voting the budget and the direct association of the people with the administration would necessarily involve the elevation of Coorg into a Governor's province. To this it was impossible for the Government of India to agree. The problem, therefore, resolved itself into a choice between two alternatives—either a purely advisory Council might be established all the members of which would be nominated by the Chief Commissioner though a proportion might be nominated on the recommendation of bodies such as municipalities and the district board, or under section 77 (2) of the Government of India Act a small Legislative Council with a substantial non-official majority might be created. The Government of India recognized that the first alternative would be entirely unacceptable to the people themselves who would regard the type of Council proposed as a mere shadow of a representative assembly unworthy of their educational and political advancement. The people of Coorg were aware of the nature of the proposals which the Government of India had under consideration. Opinion was not only divided but was vacillating for there was always the possibility of securing a degree of responsible government by amalgamation with Madras. The course then which was obviously open to the Government of India was to put to the people of Coorg the two practical alternatives of a Council under section 77 (2) of the Act or amalgamation with Madras. Fortunately the vacillation of the Coorgs came to an end and a fully representative meeting of Coorgs, both of moderate and of advanced views, unanimously decided to accept the type of Council suggested by the Government of India.

4. The primary intention of the reforms granted to Coorg was to set up there a Legislative Council of the nature of the Legislative Councils of Lieutenant Governors. This was done by notifications issued on the 30th October 1923 and, in pursuance of further notifications, the Legislative Council of Coorg was duly inaugurated on the 28th January 1924. But the step of setting

The Existing
Constitution

*Corresponding to section 77 (2) of the Government of India Act, 1915.

up a Legislative Council was found to involve consequences which affected not only the legislative but the administrative arrangements of the province. It was necessary to classify subjects, in relation to the functions of Government, as central and provincial subjects, and, seeing that the legislative council was to be concerned with the budget, a separation of provincial from central revenues and an allocation of revenues to the local Government were also inevitable.

Accordingly, Devolution Rules were framed, the bulk of which took effect from the 28th January 1924, but those which referred to allocation of revenues to the local Government were given effect from the 1st of April 1924. The existing constitution of Coorg is, therefore, described in a series of notifications of 1923 and 1924 which form an Appendix to this memorandum. And the expenditure powers of the Chief Commissioner have been defined in the rules made by the Secretary of State in Council under the proviso to section 21 of the Government of India Act which are also included in the Appendix.

For the purpose of defining the provincial sphere of administration and of legislation (subject to section 80-A of the Government of India Act) the most important rules are the Devolution Rules. These rules do not contain any explicit devolution of authority in respect of provincial subjects to the local Government as in rule 13 of the Devolution Rules applicable to Governors' Provinces. But it has been held that such devolution is implicit in the rules, and in practice the constitution has operated as if there were explicit devolution. The local Government has, therefore, been given powers of its own, but since there has been no transfer from among provincial subjects of subjects to the administration of a locally responsible executive, the local Government in all its functions is subject to the unrestricted superintendence, direction and control of the Central Government: It was a consequence of the devolution of authority to the Chief Commissioner that his expenditure powers should be somewhat wider than those of local Governments in centrally administered areas. Accordingly, he has been given powers in respect of expenditure which are less than those conceded in Governors' Provinces but more than those of minor local Governments. The classification of subjects as central and provincial follows closely the classification adopted in major provinces. But the financial powers of the local Government are subject to restriction. Taxation bills, like all other bills, require the previous sanction of the Governor-General in Council and a similar sanction is required in the case of proposed borrowing. The local Government (Borrowing) Rules have not been applied to Coorg. The allocation of revenues to the local Government was based generally on the assumption that receipts accruing in respect of provincial subjects and other allocated sources of provincial revenue would normally suffice to meet provincial expenditure. The province was, therefore, given no opening balance and the arrangements do not include any grant or subvention from central revenues.

Central subjects in Coorg are administered by the local Government as the agent of the Governor-General in Council.

The Coorg Legislative Council consists of 15 elected members and 5 other members nominated by the Chief Commissioner of whom 4 are officials and one is a non-official representing depressed classes. Of the 15 elected members 2 represent the European community, 9 the *Jama* tenure holders [defined in Coorg Electoral Rules, Schedule II, paragraph 1 (3)] and 4 the *non-jama* tenure holders. The franchise qualifications are based, as in major provinces, on the tenure of land, on assessment to income-tax, on military service and on payment of certain municipal tax. The constituencies are territorial and residence in a constituency is a necessary qualification of an elector.

The European constituency extends to the whole province and returns two members. The other constituencies are arranged by dividing the area of the province into four areas for each of which there is a *jama* constituency and a *non-jama* constituency. The *non-jama* constituencies are single-member constituencies but two of the *jama* constituencies return 3 members and one *jama* constituency returns two members. These four electoral areas do not cut across the electoral areas for the constitution of the district board but represent a grouping of these smaller areas.

Members of the Council hold office for three years from the date of taking a seat. "There is no provision for the term of life of the Council or for its dissolution. The effect is that in course of time the Council will be constituted by a series of bye-elections. The quorum for the transaction of business is eight. The Chief Commissioner is *ex-officio* President of the Council.

The functions of the Legislative Council fall into three divisions, (a) legislative, (b) deliberative and (c) interrogatory.

One source of provincial legislation is the powers given by the Scheduled Districts Act, XIV of 1874, which was declared to be in force in Coorg by a notification, dated the 22nd February 1875. Section 3 of this Act, as amended by the Devolution Act, XXXVIII of 1920, empowered the local Government to declare authoritatively which general Acts and Regulations are or are not in force in Coorg, and section 5 enables the same authority to extend to Coorg, which suitable modifications, any enactment which is in force in any other part of British India. Powers of control vested in and exercised by the Governor-General in Council in virtue of certain enactments have been relaxed and transferred to the local Government by the Devolution Act referred to above. Another source of legislation is the powers given by section 71 of the Government of India Act which applies to Coorg.

These powers remain unaffected by the establishment of a Legislative Council which has been empowered to make laws for

*This follows the distinction between Governors' Legislative Councils and Legislative Councils of Chief Commissioners made in sections 72-B, and 78 (1) of the Government of India Act.

the peace and good Government of the province, subject to the restrictions (a) that the previous sanction of the Governor-General is required to all legislation and (b) that all bills passed by the Council are reserved for the consideration of the Governor-General.

The Deliberative powers of the Council are (1) discussion of the annual financial statement and (2) discussion of matters of general public interest. The rules defining them are substantially transcripts of the rules in force in pre-reform Councils. The rules for the discussion of the annual financial statement distinguish between the financial statement and the budget. The first means the preliminary financial proposals of the local Government for the financial year next following. The second means the financial statement as revised by the local Government after the proposals of the Finance Committee have been considered. On a day not later than the 5th day of January in each year a Finance Committee of the Legislative Council is constituted for the purpose of discussing the draft financial statement and making proposals with reference thereto for the consideration of the local Government. The Committee consists of a Chairman and such other members not exceeding five as the Chief Commissioner may direct, of whom not more than half are nominated by the Chief Commissioner and the remaining members are elected by the non-official members of the Council. The Chief Commissioner of Coorg who is the "Finance member" for the purpose of those rules is the Chairman of the Committee. The draft financial statement is referred to the Committee on a day not later than the 18th day of January in each year. It contains statements showing—

- (a) the opening balance of the provincial account;
- (b) the estimated provincial revenue;
- (c) the estimated provincial expenditure;
- (d) the amounts available for maximum recurring expenditure and for total expenditure upon other new schemes;
- (e) the estimated closing balance which should not be less than Rs. 50,000.

The draft is accompanied with an explanatory memorandum. The financial statement is then discussed by the Committee whose proceedings are private and informal. The Committee submit to the local Government their report indicating the changes which it recommends by the 28th day of January. After considering the proposals of the Committee the local Government embodies its own conclusions in the financial statement. The budget is not formally presented to the Council but copies are supplied to all members. It comprises a memorandum by the Finance Member explaining the general financial situation of the province in the current and ensuing years together with a memorandum explaining the estimates of revenue and expenditure. The first stage of discussion takes place on a subsequent day after the copies of the budget are supplied to members. At this stage the discussion of the budget is general and no member is permitted to

move any resolution nor is any question submitted to the vote of the Council. On the day following that on which the the general discussion has been held the heads or groups of heads in the budget are considered separately. The members are then at liberty to move resolutions, subjects to certain restrictions resembling those in force in Governors' provinces. The subjects specifically excluded from discussion are those referred to in sub-section (3) of section 72-D of the Government of India Act and in rule 23 of the Rules of Business for provincial legislative councils. The Council can divide on these resolutions. Every resolution, if carried, has effect only as a recommendation to the Chief Commissioner. The discussion of the budget is closed by the middle of March. A printed copy of the budget as finally passed by the local Government is communicated to each member of Council with a note describing the changes that have been made in the figures originally supplied to the Council and explaining why any resolutions passed by the Council have not been accepted. A copy of the budget as finally passed is also submitted to the Governor-General in Council for information.

Discussions on matters of general public interest must be raised by resolution and take place after all the other business of the day has been concluded. The general rules regulating the form of the resolutions and the discussions upon them, are, in the main, the same as those for the discussion of resolutions on the financial statement, the chief difference being that the range of discussions is wider and that amendments are allowed. The subjects specifically excluded from discussion are those mentioned above in connection with the financial statement. The President has the same discretionary power of disallowing resolutions as he has in the case of resolutions on the financial statements.

The Council has the right to ask questions under conditions and restrictions. Any member who has asked a question may put a question "for the purpose of further elucidating any matter of fact regarding which an answer has been given". But the President may disallow a supplementary question if, in his opinion, it infringes the rules as to the subject matter of questions and the member to whom it is addressed may decline to answer it without notice.

5. The new constitution has resulted in the enfranchisement of 6½ per cent. of the total population, the voters now on the rolls numbering 10,563. The census of 1921 showed the male population of the province over the age of 25 as 43,240 persons. The number of literate males over the age of 20 was 13,360. For the present purpose some deduction must be made from these figures to allow for the large fluctuating population which comes and goes in connection with the planting industry. It seems a probable conclusion that the franchise is more extended than is usual in India as a whole and has reached some approximation to a measure of political capacity in the province. The elections which took place in 1924 and in 1927 were freely contested. On the first occasion only the European constituency was uncontested and

The Operation of the Constitution.

30 candidates stood for the remaining 13 seats. On the second occasion there was no contest in the European constituency and in one *jama* and two *non-jama* constituencies. Twenty-three candidates stood for election. It is probable that the appeal of candidates to the electorate was purely personal. At all events the interest shown in the elections was high. In 1924, 7,821 votes or 74 per cent. of the total registered voters went to the poll. The corresponding figures in 1927 were 6,699 and 75.

The elected members, with one or two exceptions, it is said, are not drawn from the best classes in Coorg. The old type of conservative Coorg with considerable vested interests in the land, the type that takes the lead in the village life of the province and may be compared to the landed gentry in England, will not come forward for election. Persons of this class consider it beneath their dignity to enter the hurly burly of an election opposed by men of mediocre standing employing dubious political tactics, and they will not take the risk of being defeated by such men at the polls. The composition of the two Councils was as follows:—

	1924.	1927.
European planters	2	2
Landholders	6	6
Coffee planters	4	2
Legal practitioners	2	4
Journalists	1	1

The Council sits for very short periods in autumn and spring. The detail of the sessions which have been held is as follows:—

Number of Sessions.	No. of days.
1. January, 1924	1 day.
2. March, 1924	3 days.
3. September, 1924	3 days.
4. March, 1925	3 days.
5. October, 1925	1 day.
6. January, 1926	1 day.
7. March, 1926	4 days.
8. November, 1926	3 days.
9. March, 1927	2 days.
10. October, 1927	2 days.
	<hr/> 23 days.

The attendance of members has always been very high, and in the September session of 1924 and the March session of 1925 there were no absentees at all.

As was anticipated from the constitution framed, the Council has been very little engaged in legislation. There has been no non-official legislation and official legislation has been confined to the Village Panchayat Bill and the Coorg Labour Bill which were both important measures. Since the Council was constituted no use has been made by the Chief Commissioner of his powers under the Scheduled Districts Act or by the Governor-General in Council of his powers under section 71 of the Government of India Act.

The most important business in the March sessions has been the discussion of the budget. At other times the Council has been occupied with resolutions and interpellations. Up to the end of 1926, 474 questions were asked and during 1927, 117 questions were put. Interpellation on the whole has been employed with an earnest desire to elicit information of real public value. Resolutions numbered 155. There have been no official resolutions. Resolutions brought forward may be divided into four classes:—

1. Resolutions framed in respect of the Medical, Education and Public Works Departments with a genuine regard for the public benefit although evincing scant knowledge or understanding of Finance or the Financial situation.
2. Resolutions framed on communal or sectional lines, *e.g.*, for the benefit of the *jama* Coorg—showing little or no regard for other sections of the community.
3. Resolutions framed on personal lines, *e.g.*, attempts to discredit subordinate officers, or to obtain scholarships for relatives of the mover.
4. Resolutions of a somewhat illusory nature, *e.g.*, demands for seats in the Central Legislature in addition to the Council, or for raising the status of Coorg to that of a Governor's Province.

The Council passed 58 resolutions. Full effect was given to 20 of these on subjects such as the appointment of an Assistant Surgeon for the Virajpet Hospital; the Harangi Project; repairs to the Chikkalehole channel; closing of paisari lands against grazing; government posts for depressed classes; industrial school at Virajpet; opening of a road into the Marenad; appointment of a Committee to enquire into the deterioration of cattle, etc., committee to enquire into the wide spread of malaria; grant of gun licences, etc., village Panchayat system; enhancing the Commissioner's discretionary powers; repairs to the tramway at Makut; uprooting of sandal trees; supplementary questions; legislation regarding labour; and amendment of the local Fund and Municipal regulations.

Partial effect was given to 13. No effect could be given to resolutions passed on such subjects as the appointment of a Committee to revise the Coorg Revenue Manual, the Rules under the Indian Fisheries Act, the grant of free grazing in reserved forests, the construction of a bridge across the Cauvery at Betheri, change of the assessment of *jama* holdings made at the last settlement, and the exemption of *jama* ryots from restriction on the carrying of revolvers within British India.

The discussions of the draft budget by the Finance Committee have divulged a sense of responsibility and sound judgment. Indeed, at least on one occasion the local Government accepted *in toto* the Committee's recommendations. Most of the recommendations have been marked by good sense, but in the existing

financial situation of the province the Committee has little scope for putting forward any far-reaching or important proposals. The detailed discussion of the budget in the legislative council gave rise to 98 budget motions. Of these 53 were withdrawn, 16 were not moved, and 14 were rejected. The remaining 15 were carried by the Council and 4 were wholly or partially accepted by the local Government. These budget motions proposed not only the reduction but also on occasion the enhancement of expenditure proposed by the Chief Commissioner. The budget heads which seem to have received most attention are those connected with Forest and Education, and on three occasions resolutions for increased expenditure on the latter head have been carried. In 1927 resolutions to increase medical expenditure were carried. There is no statutory provision for the examination by the Council of the appropriation of provision made in the annual budget. But since 1927 a small informal committee has been constituted to examine the Audit and Appropriation Accounts of the Province. It includes members of Council but it reports not to the Council but to the Chief Commissioner.

On the whole the Legislative Council has established a growing influence over the executive. Generally speaking, the standard of debate has been satisfactory and at times has risen to a high level, and members have been eager to preserve deportment and decorum in the conduct of debates. The presence of the Chief Commissioner as President must necessarily have a sobering effect. The unimportance of legislation and the restricted range of subjects to which the legislature of so small a province can devote its attention have resulted in the boundary line between the respective spheres of the executive and the council becoming obscured to some extent. The 15 elected members in this small area are brought into contact with the administration at every point throughout the province and the distinction between the legislative council and executive bodies such as a municipal committee has sometimes been forgotten by members.

The equity of the financial settlement which was made with the province when the Devolution Rules were framed is a subject on which the executive and the legislature are at one in their claims upon the Central Government. The financial position of the Province has, since the provincialization of Coorg Revenues, been somewhat precarious. The revenue and expenditure figures for the last five years are as follows:—

Year.	Revenue.	Expenditure.	Surplus or deficit. + or —.
	Rs.	Rs.	Rs.
1924-25 . . .	15,04,488	13,06,335	+1,98,153
1925-26 . . .	13,84,541	12,80,546	+1,03,995
1926-27 . . .	13,03,328	12,85,944	+ 22,384
*1927-28 . . .	13,40,000	13,05,000	+ 35,000
+1928-29 . . .	13,46,000	14,19,000	- 73,000

* Revised estimate.

† Budget.

The annual budget is balanced with difficulty and little or no money is available for new and urgently required works such as anti-malaria measures, communications, hospitals and the like. The heavy demands made on the province in respect of leave and pension contributions of officers whose services have been lent to the province in the past have proved an unexpected drain on its slender resources. The Government of India has been unable to relieve the province of this liability in view of the undesirability of relaxing the Audit Rules in favour of any particular province. But an attempt has been made by the province to improve its financial position by obtaining from the Government of India a large opening balance on the ground that forest revenues, which are the sheet-anchor of provincial finance, are suffering from the excessive exploitation of the sandalwood forests by the Government of India while Coorg was still centrally administered. This claim is still under consideration.

6. It is possible that in Coorg there is not only a divergence of the views of different classes but also some vacillation of aim in each class. A section of opinion seems to be influenced mainly by sympathy with the aspirations and political theories of advanced opinion in India generally and in Madras in particular. Others pay regard more to the past history and the present social and economic conditions of the province. For all sections it is a practical problem whether provincial desires can best be fulfilled by development of provincial institutions or by increased participation in central institutions or by association with the more advanced arrangements which have been or may be introduced in the adjoining Presidency of Madras. The demands which have so far been made or expressed cannot be regarded as conclusive evidence of a considered and consistent policy.

The Future—
Demands and
Aims.

On the 26th September 1924, a resolution was passed unanimously in the Council recommending that the province should be given adequate representation in the Indian Legislative Assembly and in the Council of State. In sending up the resolution for the orders of the Government of India, the Chief Commissioner expressed his sympathy with the claim made by the Coorgs and in a subsequent letter he suggested that a possible solution might be to include Coorg for the purposes of representation in the Assembly in an adjacent constituency of Madras. To this the Government of India were unable to agree, and they drew attention to the fact that Baluchistan has no representative in the Legislative Assembly, while Ajmer-Merwara, which has a representative, has no Legislative Council: Coorg could not have both.

On the 16th March 1925, a resolution was moved in the Council that Coorg should be constituted a Governor's province. The representative of the Coorg Government in the Council expressed the view that the resolution was premature. Nine members voted for the resolution, and no other member voted either for or against. The Government of India declined to accept the resolution.

On the 6th May 1928, the Coorg Zamindars Association, under the presidency of a Madras politician, adopted resolutions demanding a constitution introducing full responsible government based on adult suffrage with representation in the Central Legislature. But it was also demanded, first, that as a temporary measure all judicial powers and all other administrative powers in respect of courts in Coorg, other than the recruitment of the judicial services of the province, should be vested in the High Court at Madras, and, second, that Coorg should be unified with Karnataka as an autonomous linguistic province. The latest Congress resolutions contemplate an autonomous province of Coorg on the model of Governor's provinces, and the same conclusion has been reached, without discussion of local conditions, by the All-Parties Conference.

On the other hand there appears to be a body of local opinion which is concerned more with the experience gained under the present constitution and which has more regard to the peculiar circumstances of the province. It is argued that divisions and dissensions caused by the Council have been felt in every Coorg valley. Jealousy amongst Coorg families has always existed, but at no period in its history have the Coorgs been so divided amongst themselves as at the present time. With the majority of families Government service has been a tradition since the time of the Rajas. Criticism by those whom the old Coorgs consider as upstarts in Council has led to bitter feeling. Any advance towards popular Government, for example control by ministers, would enhance this feeling. In fact it would not be possible in Coorg to find a minister able to command general confidence. In Coorg, politics cannot be divorced from the lower paid revenue official inspecting a field, or a police constable visiting a village on patrol. This unhealthy atmosphere would be intensified by wider popular control. There can be no field, for instance, in which a minister could operate without encroaching on the proper duties of a stipendiary official. Any change in Coorg which brought non-officials more prominently into the executive field would result in the collapse of the executive services. The best families of Coorg have their ancestral lands to support them and would decline to enter Government service.

The same critics maintain that any constitutional advance on popular lines must necessarily entail increased expenditure although the present financial situation obviously does not admit of any such increase. On this subject the view of the Council is that lower-paid officials should be employed. But it is contended that any advance towards a more popularized or elaborate form of administration or Council would entail the enlistment of more senior officers and consequently increased expenditure. Again, Coorg, at present, is cut off from the services of expert officers who are essential for advance in those departments in which the politician chiefly calls for progress. When Coorg is in need of the temporary or part-time advice of agricultural, veterinary, excise, forest, malarial or other officers of specialized training, recourse

has to be had to Madras to attain such services. Coorg has been seriously hampered in the past by this disability and the disability will be accentuated as time goes on. If, therefore, constitutional advance is to mean progress in transferred subjects the machinery to give effect to this policy will involve considerable further outlay.

This argument is directed alike against a system of representative government and a system of responsible government, and there are many Coorgs of the old family who would prefer to return to the old order of things, for they regard the Council as a useless incubus costing money which might well be expended elsewhere.

But there are other considerations which point in the direction of amalgamation with Madras. For many years to come Coorg must draw the officers of its administration including to a large extent provincial officers from Madras. For the higher education of their children the people of the province must look outside Coorg and there is a widespread demand that Coorg should be brought within the jurisdiction of the Madras High Court. A very general and substantial complaint is that there is no field for young Coorgs in Coorg itself, and that they have to look further afield in search of a career. But the whole tendency of popular administration in provinces is to reserve provincial employment for provincial citizens. Finally, the present provincial isolation can be maintained only if financial support is forthcoming from outside.

7. It is possible that the situation has been to some extent complicated by the recent introduction of the elective principle into the district board. The operation of the present constitution has made it clear that legislative functions are a very inconsiderable portion of the activities of the Legislative Council and that the practice of administration is so much the interest of the members of the Legislative Council that the distinction between it and bodies such as district boards and municipalities in practice tends to be overlooked. The position, then, is that for the same small area the same electorate, through constituencies not widely dissimilar, return the predominant element in two Assemblies, of the same strength and interested in matters of the same nature. It may be argued that the existence of a Legislative Council in so minute a province is an anomaly, and the anomaly is only emphasized by the existence of a similar Assembly in the same area.

The Future—
General.

In this confusion of issues, not only the terms of the proclamation of the annexation of Coorg in 1834 but also all dictates of political wisdom make it essential to ascertain precisely what the real views of the people regarding the present constitution and their wishes for the future are. The Coorgs who are the dominant race themselves undoubtedly visualized a Council composed of elders imbued with the conservative tradition of their race, and imagined that in fact the Council would be to some degree a return to the condition of things prior to the Rajas, when Coorg was governed by a small elected body of elders with plenary powers

controlling similar bodies in the "Nads" or Tehsils and in the villages. Their hopes in this respect have not materialised, and they are, it is believed, in the majority sadly disillusioned. The Council returned at the first elections was dominated by Brahmin lawyers aping the methods of the Swarajists, and by their following of several unbalanced young Coorgs. The second elections went further in creating in conservative minds a profound distaste for the Council. It may, therefore, be that the present form of Council Government is unpopular with the majority of the people, and the more numerous opinion might prefer a reversion to government by the Chief Commissioner coupled with a council composed of leading and respectable men serving the purpose of an advisory body.

The alternatives which have at present appeared are:—

- (1) A reversion to the order of things prior to the constitution of the Council,
- (2) A re-arrangement of the functions of the Legislative Council and the District Board and possibly their amalgamation,
- (3) A more advanced and popularly constituted form of constitution,
- (4) Amalgamation with Madras.

To most of these there are obvious objections. To the last three would be the sentimental objection that the history of the race is one of complete independence and sustained and successful efforts to resist invasion. The Coorgs themselves wish for isolation and would undoubtedly be reluctant to agree to such a step as amalgamation. But it is possible that sane local opinion recognizing the inevitable dependence of Coorg on its neighbour, and weighing the anomalies and difficulties of a democratic form of constitution, would view amalgamation, with safeguards for the recognition of Coorg as a separate entity, as a source of benefit to the province and to the Coorgs as a race.

APPENDIX.

HOME DEPARTMENT.

NOTIFICATIONS.

Simla, the 30th October, 1923.

No. F.-248-22-I.—In exercise of the power conferred by sub-section (2) of section 77 of the Government of India Act, the Governor General in Council is pleased to extend to the province of Coorg, with effect from such date as he may hereafter by

notification in the Gazette of India appoint, the provisions of the said Act relating to legislative councils of the lieutenant-governors and to direct that the provisions of sub-section (1) of section 77 of the said Act shall apply to the province of Coorg in like manner as they apply to a new lieutenant-governorship.

No. F.-248-22-II.—Whereas by a Notification No. F.-248-22-I. of the Government of India in the Home Department, dated the 30th October 1923, issued in exercise of the powers conferred by sub-section (2) of section 77 of the Government of India Act, the Governor General in Council has directed that the provisions of the said Act relating to legislative councils of lieutenant-governors shall be extended to the province of Coorg with effect from such date as may hereafter be appointed;

And whereas it is necessary in order that a legislative council may be constituted for the province of Coorg, for the purpose of giving effect to the said notification on such date as aforesaid, that provision should be made for the matters referred to in section 76 of the said Act in respect of the said legislative council;

And whereas a draft of rules making such provision has been approved by the Secretary of State in Council;

Now, therefore, in exercise of the power conferred by sub-section (5) of section 47 of the Government of India Act, 1919, the Governor General in Council is pleased to order that the following rules, being the rules as so approved, shall come into force at once and shall have the like effect as if they had been made under section 76 of the Government of India Act.

- | | |
|---|---------------------------------------|
| 1. (1) These rules may be called the Coorg Electoral Rules. | Short title
and com-
mencement. |
| (2) They shall come into force at once. | |
| 2. In these rules, unless there is anything repugnant in the subject or context,— | Definitions. |
| (a) “ the Act ” means the Government of India Act; | |
| (b) “ Commissioners ” means Commissioners appointed for the purpose of holding an election enquiry under these rules; | |
| (c) “ corrupt practice ” means any act deemed to be a corrupt practice under the provisions of Schedule VII; | |
| (d) “ election agent ” means the person appointed under these rules by a candidate as his agent for an election; | |
| (e) “ Gazette ” means the Coorg District Gazette; | |
| (f) “ general election ” means the aggregate of any elections declared by the Chief Commissioner by notification in the Gazette to constitute a general election for the purposes of these rules; and | |
| (g) “ Schedule ” means a Schedule to these rules. | |

PART I.

Composition of Council and Constituencies.

Composition
of legislative
council.

3. The legislative council of the Chief Commissioner of Coorg shall consist of—

- (1) fifteen elected members; and
- (2) five members nominated by the Chief Commissioner, of whom four shall be officials and one shall be a person nominated to represent the following communities, namely, Holyas, Kurubas, Madigas and Yeravas:

Provided that the Chief Commissioner may, for the purpose of any Bill introduced or proposed to be introduced in the council, nominate one person having special knowledge or experience of the subject-matter of the Bill, and that person shall in relation to the Bill have for the period for which he is nominated all the rights of a member of the council and shall be in addition to the members above referred to.

Quorum.

4. The presence of at least eight members shall be necessary, to constitute a meeting of the council for the exercise of its powers.

Constitu-
encies.

5. The elected members shall be elected by the constituencies specified in Schedule I, and the number of members to be elected by each constituency shall be as stated therein against that constituency.

PART II.

Qualifications of Members.

General dis-
qualifications
for being
elected.

6. (1) A person shall not be eligible for election or nomination as a member of the Council if such person—

- (a) is not a British subject; or
- (b) is a female; or
- (c) has already made the oath or affirmation as a member of the council or of any other legislative body constituted under the Act; or
- (d) having been a legal practitioner, has been dismissed or is under suspension from practising as such by order of any competent Court; or
- (e) has been adjudged by a competent Court to be of unsound mind; or
- (f) is under twenty-five years of age; or
- (g) is an undischarged insolvent; or
- (h) being a discharged insolvent has not obtained from the Court a certificate that his insolvency was caused by misfortune without any misconduct on his part:

Provided that the Chief Commissioner may direct that, subject to such conditions as he may prescribe, a Ruler of any State in India or the Rulers of any such States or a subject of any such State or any class of such subjects shall not be ineligible for election or nomination by reason only of not being a British subject or British subjects:

Provided, further, that the disqualification mentioned in clause (d) may be removed by an order of the Chief Commissioner in this behalf.

(2) A person against whom a conviction by a Criminal Court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election or nomination for five years from the date of the expiration of the sentence.

(3) If any person is convicted of an offence under Chapter IXA of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is, after an inquiry by Commissioners appointed under any rules for the time being in force regarding elections to a legislative body constituted under the Act, reported as guilty of a corrupt practice as specified in Part I, or in paragraph 2 or 3 of Part II, of Schedule VII, such person shall not be eligible for election or nomination for five years from the date of such conviction or of the finding of the Commissioners, as the case may be; and a person reported by any such Commissioners to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

(4) If in respect of an election to any legislative body constituted under the Act a return of the election expenses of any person who has been nominated as a candidate at that election is not lodged within the time and in the manner prescribed by or under the rules made in that behalf, or if any such return is lodged which is found, either by Commissioners holding an inquiry into the election or by a Magistrate in a judicial proceeding, to be false in any material particular, neither the candidate nor his election agent shall be eligible for election or nomination for five years from the date of such election:

Provided that any disqualification mentioned in sub-rule (3) or sub-rule (4) may be removed by an order of the Chief Commissioner in that behalf.

7. (1) No person shall be eligible for election as a member of the council to represent a constituency other than the European constituency unless his name is registered on the electoral roll of the constituency or of another constituency of the same class in the province.

Special qualifications for election in case of different constituencies.

(2) No person shall be eligible for election as a member of the council to represent the European constituency unless his name is registered on the electoral roll of that constituency.

PART III.

The Electoral Roll.

General
conditions
of registra-
tion and
disqualifica-
tions.

8. (1) Every person shall be entitled to have his name registered on the electoral roll of a constituency who has the qualifications prescribed for an elector of that constituency, and who is not subject to any of the disqualifications hereinafter set out, namely:—

- (a) is not a British subject; or
- (b) is a female; or
- (c) has been adjudged by a competent Court to be of unsound mind; or
- (d) is under twenty-one years of age:

Provided that the Chief Commissioner may direct that, subject to such conditions as he may prescribe, a Ruler of any State in India or the Rulers of any such States or a subject of any such State or any class of such subjects shall not be ineligible for a election by reason only of not being a British subject or British subjects:

Provided further, that no person shall be entitled to have his name registered on the electoral roll of more than one constituency.

(2) If any person is convicted of an offence under Chapter IXA of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is, after an inquiry by Commissioners appointed under any rules for the time being in force regarding elections to a legislative body constituted under the Act, reported as guilty of a corrupt practice as specified in Part I or in paragraph 1, 2 or 3 of Part II of Schedule VII, his name, if on the electoral roll shall be removed therefrom and shall not be registered thereon for a period of five years from the date of the conviction or the report, as the case may be, or, if not on the electoral roll, shall not be so registered for a like period; and if any person is reported by any such Commissioners as guilty of any other corrupt practice, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of three years from the date of the report or, if not on the electoral roll, shall not be so registered for a like period:

Provided that the Chief Commissioner may direct that the name of any person to whom this sub-rule applies shall be registered on the electoral roll.

Qualifica-
tions of
electors.

9. The qualifications of an elector for a constituency shall be such qualifications based on—

- (i) community,
- (ii) residence, and
- (iii) (a) assessment to property tax, tax on companies, or profession tax, or
- (b) assessment to municipal tax, or

- (c) assessment to house tax under the Coorg District Fund Regulation, 1900, or
- (d) assessment to income-tax, or
- (e) military service, or
- (f) the holding of land,

as are specified in Schedule II in the case of that constituency.

10. (1) An electoral roll shall be prepared for every constituency, on which shall be entered the names of all persons appearing to be entitled to be registered as electors for that constituency. It shall be published in the constituency together with a notice specifying the mode in which and the time within which any person whose name is not entered in the roll and who claims to have it inserted therein, or any person whose name is on the roll and who objects to the inclusion of his own name or of the name of any other person on the roll, may prefer a claim or objection to the Revising Authority. Electoral roll.

(2) The following matters shall be determined in accordance with the provisions of Schedule III, namely:—

- (1) the authority by whom the electoral roll shall be prepared and the particulars to be contained in the roll;
- (2) the time at which the roll shall be prepared;
- (3) the publication of the roll in such manner and in such language as to give it wide publicity in the constituency to which it relates;
- (4) the mode in which and the time within which claims and objections may be preferred;
- (5) the constitution and appointment of Revising Authorities to dispose of claims and objections;
- (6) the manner in which notices of claims or objections shall be published; and
- (7) the place, date and time at which and the manner in which claims or objections shall be heard.

(3) The orders made by the Revising Authority shall be final, and the electoral roll shall be amended in accordance therewith and shall, as so amended, be re-published in such manner as the Chief Commissioner may prescribe.

(4) The electoral roll shall come into force from the date of such re-publication and shall continue in force for a period of three years after the expiration of which period a fresh roll shall be prepared in accordance with these rules:

Provided that the Chief Commissioner may, by notification in the Gazette, direct the preparation in accordance with these rules of a fresh roll at any time before the expiration of the said period.

(5) If a constituency is called upon to elect a member or members after an electoral roll has ceased to have force and before the completion of the new electoral roll, the old electoral roll shall,

for the purpose of that election, continue to operate as the electoral roll for the constituency.

(6) Notwithstanding anything hereinbefore contained, any person may apply to such authority as may be appointed in this behalf by the Chief Commissioner for the amendment of any electoral roll for the time being in force, and the Chief Commissioner may, at any time after any such application has been made in respect of an electoral roll, by notification in the Gazette, direct the preparation of a list of amendments thereto, and all the provisions of this rule shall apply in the case of every such list in like manner as they apply in the case of electoral rolls:

Provided that, where any such application is made for the correction of an existing entry in the electoral roll, and the said authority is satisfied that the entry relates to the applicant and is erroneous or defective in any particular, he may amend the roll or cause it to be amended accordingly.

(7) When any list of amendments has been re-published under sub-rule (6), the electoral roll to which it relates shall be deemed to have been amended accordingly.

Right to
vote.

11. (1) Every person registered on the electoral roll for the time being in force for any constituency shall, while so registered, be entitled to vote at an election of a member or members for that constituency:

Provided that—

(a) no person shall vote at any general election in more than one constituency, and

(b) no person shall vote at any election if he is subject to any disability stated in rule 8.

(2) If any person is, in the course of the hearing of an election petition under these rules, proved to have voted at the election in contravention of the proviso to sub-rule (1), his vote shall be void.

PART IV.

Elections.

Nomination
of candidates.

12 (1) Any person may be nominated as a candidate for election in any constituency for which he is eligible for election under these rules.

(2) The Chief Commissioner shall appoint for each constituency—

(a) a date, not later than the fourteenth day after the date of the notification calling upon the constituency to elect a member, for the nomination of candidates;

(b) a further date, not later than the seventh day after the first mentioned date, for the scrutiny of nominations; and

(c) a further date on which a poll shall, if necessary, be taken; and the dates so appointed shall be notified in the constituency in such manner as the Chief Commissioner thinks fit.

(3) On or before the date so appointed for the nomination of candidates, each candidate shall, either in person or by his proposer and seconder together, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon, deliver to the Returning Officer or to such other person as may be authorised by the Chief Commissioner in this behalf a nomination paper completed in the form prescribed in Schedule IV and subscribed by the candidate himself as assenting to the nomination and by two persons as proposer and seconder whose names are registered on the electoral roll of the constituency.

(4) Any person whose name is registered on the electoral roll of the constituency, and who is not subject to any disability stated in rule 8, may subscribe, as proposer or seconder, as many nomination papers as there are vacancies to be filled, but no more.

(5) Every nomination paper delivered under sub-rule (3) shall be accompanied by a declaration in writing subscribed by the candidate that the candidate has appointed or does thereby appoint as his election agent for the election either himself or some one other person who is not disqualified under these rules for the appointment and who shall be named in the declaration; and no candidate shall be deemed to be duly nominated unless such declaration is delivered along with the nomination paper.

(6) Any nomination paper which is not received before three o'clock in the afternoon on the date appointed by the Chief Commissioner for the nomination of candidates shall be rejected.

(7) The Returning Officer or other person authorised shall, on receiving a nomination paper under sub-rule (3), inform the person or persons delivering the same of the date, hour and place appointed for the scrutiny of nominations, and shall enter in the nomination paper its serial number, and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him; and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of the nomination containing description, similar to those contained in the nomination paper, both of the candidate and of the persons who have subscribed the nomination paper as proposer and seconder.

(8) Any candidate may withdraw his candidature by notice in writing subscribed by him and delivered to the Returning Officer or other person authorised on or before three o'clock in the afternoon on the date succeeding that appointed by the Chief Commissioner for the scrutiny of nominations. A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be re-nominated as a candidate for the same election.

(9) The Returning Officer or other person authorised shall, on receiving a notice of withdrawal under sub-rule (8), as soon as

may be, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

Deposit on
nomination.

13. (1) On or before the date appointed for the nomination of candidates, each candidate shall deposit or cause to be deposited with the Returning Officer the sum of two hundred and fifty rupees in cash or in Government Promissory Notes of equal value at the market rate of the day; and no candidate shall be deemed to be duly nominated unless such deposit has been made.

(2) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made withdraws his candidature in the manner and within the time specified in sub-rule (8) of rule 12, or if the nomination of any such candidate is refused, the deposit shall be returned to the person by whom it was made; and, if any candidate dies before the commencement of the poll, any such deposit, if made by him, shall be returned to his legal representative or, if not made by the candidate, shall be returned to the persons by whom it was made.

(3) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made is not elected and the number of votes polled by him does not exceed, in the case of a constituency returning one or two members, one-eighth of the total number of votes polled or, in the case of a constituency returning more than two members, one-eighth of the number of votes polled, divided by the number of members to be elected, the deposit shall be forfeited to the Government.

(4) For the purpose of sub-rule (3), the number of votes polled shall be deemed to be the number of ballot papers, other than spoilt ballot papers, counted.

(5) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made is elected and thereafter his seat is declared vacant under these rules owing to his failure to make the oath or affirmation hereinafter prescribed, the deposit shall be forfeited to the Government.

(6) The deposit made in respect of a candidate who is not elected shall, if it is not forfeited under sub-rule (3), be returned to the candidate or to the person who has made the deposit on his behalf, as the case may be, as soon as may be after the publication of the result of the election in the Gazette; and the deposit made in respect of a candidate who is elected shall, if it is not forfeited under sub-rule (5), be so returned as soon as may be after the candidate has made the oath or affirmation hereinafter prescribed:

Provided that, if a candidate is duly nominated at a general election in more than one constituency, not more than one of the deposits made by him or on his behalf shall be returned, and the remainder shall be forfeited to the Government.

Death of
candidates
before poll.

14. If a candidate who has been duly nominated dies after the date appointed for the scrutiny of nominations and before the date appointed for the taking of a poll, the Returning Officer or

other authorised person referred to in sub-rule (3) of rule 12 shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the Chief Commissioner, and all proceedings with reference to the election shall be commenced anew in all respect as if for a new election:

Provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermanding of the poll.

15. (1) If the number of candidates who are duly nominated and who have not withdrawn their candidature in the manner and within the time specified in sub-rule (8) of rule 12 exceeds that of the vacancies, a poll shall be taken. Procedure at election.

(2) If the number of such candidates is equal to the number of vacancies, all such candidates shall be declared to be duly elected.

(3) If the number of such candidates is less than the number of vacancies all such candidates, if any, shall be declared to be elected, and the Chief Commissioner shall, by a notification in the Gazette, call upon the constituency to elect a person or persons, as the case may be, within such time as may be prescribed by the notification:

Provided that, where the constituency, having already been called upon under this sub-rule, has failed to elect a person or the requisite number of persons, as the case may be, to fill the vacancy or vacancies, the Chief Commissioner shall not be bound to call again upon the constituency to elect a person or persons until such time, if any, as he thinks fit.

(4) Votes shall be given by ballot, and, except in the European constituency, in person:

Provided that the Chief Commissioner may—

(a) in the case of any specified constituency or of any specified part of any constituency, or

(b) in respect of any person attending at a polling station in any constituency under the orders of, or under authority from, the Returning Officer of such constituency,

direct that votes may be given otherwise than in person:

Provided, further, that no votes shall be received by proxy.

(5) In plural-member constituencies every elector shall have as many votes as there are members to be elected; but no elector shall give more than one vote to any candidate.

(6) Votes shall be counted by, or under the supervision of, the Returning Officer, and each candidate, the election agent of each candidate, and one representative of each candidate authorised in writing by the candidate shall have a right to be present at the time of counting.

(7) When the counting of the votes has been completed, the Returning Officer shall forthwith declare the candidate or candi-

dates, as the case may be, to whom the largest number of votes has been given, to be elected.

(8) Where an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Returning Officer and in such manner as he may determine.

(9) The Returning Officer shall without delay report the result of the election to the Secretary to the Council, and the name or names of the candidate or candidates elected shall be published in the Gazette.

Provisions
regarding
the conduct
of election.

16. The following matters shall be determined in accordance with the provisions of Schedule V, namely:—

- (1) the scrutiny of nominations, the manner in which such scrutiny shall be conducted, and the conditions and circumstances in which any person may be present or may enter objections thereat;
- (2) the appointment in each constituency of a Returning Officer and his powers and duties, and the performance by other persons of any power or duty of the Returning Officer;
- (3) the division of constituencies into polling areas, and the appointment of polling stations for these areas;
- (4) the appointment of officers to preside at polling stations and the duties of such officers;
- (5) the checking of voters by reference to the electoral roll;
- (6) the manner in which votes are to be given generally, and in the case of illiterate voters or voters under physical or other disability;
- (7) the procedure to be followed in respect of tender of votes by persons representing themselves to be electors after other persons have voted as such electors;
- (8) the scrutiny of votes;
- (9) the safe custody of ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers; and
- (10) the conduct of elections generally.

Multiple
elections.

17. (1) If any person is elected either by more than one constituency of the council or by a constituency of the council and a constituency of the legislative council of another province, he shall, by notice in writing signed by him and delivered to the Secretary to the Council or the Secretaries to both Councils, as the case may be, within seven days from the date of the publication of the result of such election in the local official Gazette, choose for which of these constituencies he shall serve, and the choice shall be conclusive.

(2) When any such choice has been made, the Chief Commissioner shall call upon the constituency or constituencies for which such person has not chosen to serve to elect another person or persons.

(3) If the candidate does not make the choice referred to in sub-rule (1) the election of such person shall be void, and the Chief Commissioner shall call upon the constituency or constituencies concerned to elect another person or persons.

Election Agents and Return of Expenses.

18. No person shall be appointed an election agent who is himself ineligible for election as being subject to any disqualification mentioned in sub-rule (3) or sub-rule (4) of rule 6. Disqualification for being election agent.

19. (1) The appointment of an election agent, whether the election agent appointed be the candidate himself or not, may only be revoked in a writing signed by the candidate and lodged with the officer receiving nominations, and shall operate from the date on which it is so lodged. Revocation of appointment of election agent.

(2) In the event of such a revocation or of the death of any election agent, whether such event occurs before, during or after the election, the candidate shall appoint forthwith another election agent and declare his name in writing to the said officer.

20. (1) Within thirty-five days from the date of the publication of the result of an election under sub-rule (9) of rule 15, there shall be lodged with the Returning Officer in respect of each person who has been nominated as a candidate for the election a return of the election expenses of such person in the form prescribed in Schedule VI and signed both by the candidate and by his election agent. Return of election expenses.

(2) The return shall be accompanied by declarations by the candidate and his election agent which shall be in the form contained in Schedule VI, and shall be made on oath or affirmation before a Magistrate.

(3) Notwithstanding anything hereinbefore contained, where a candidate is owing to absence from India unable to sign the return of election expenses and to make the declaration within the period prescribed in this rule, the return shall be signed and lodged by the election agent only and shall be accompanied by a declaration by the election agent under sub-rule (2), and, within fourteen days after the return of the candidate to India, he shall cause to be lodged with the Returning Officer a declaration made on oath or affirmation before a Magistrate in the special form for the purpose contained in the said Schedule.

(4) When any return and the declarations made in respect thereof have been lodged with the Returning Officer, the Returning Officer shall, as soon as may be, cause a notice of the date on which the return and declarations in question have been lodged, and of the time and place at which they can be inspected to be fixed in some conspicuous place in his office and to be published in the Gazette, and any person shall, on payment of a fee of one rupee, be entitled

to inspect any such return or declaration and, on payment of such fee as the Chief Commissioner may prescribe, to obtain a copy or copies thereof or of any part thereof.

(5) The Chief Commissioner shall cause to be prepared in such manner and maintained for such time, as he may direct, a record showing the names of all candidates at every election under these rules and the name of the election agent of each such candidate and the date on which the return of election expenses of each candidate has been lodged with the Returning Officer.

Fixation of
maximum
election
expenses.

21. (1) The Governor General in Council may, by notification in the Gazette,—

- (a) fix maximum scales of election expenses which shall be applicable to any election held after the first elections under these rules; and
- (b) prescribe the numbers and descriptions of persons who may be employed for payment in connection with any election held under these rules.

(2) Any notification issued under this rule may make different provisions for different constituencies.

Accounts of
agents.

22. Every election agent shall, for each election for which he is appointed an election agent, keep separate and regular books of account in which the particulars of all expenditure of the nature referred to in Schedule VI shall be entered, whether such expenditure is incurred by the candidate or by the election agent, or by any person under the direction of the candidate or the election agent.

PART V.

GENERAL PROVISIONS.

Obligation to take Oath.

Taking of
oath.

23. Every person who is elected or nominated to be a member of the council shall, before taking his seat make, at a meeting of the council, an oath or affirmation of his allegiance to the Crown in the following form, namely:—

I. A. B., having been ^{elected}/_{nominated} a member of this council, do solemnly swear (*or affirm*) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.

Vacation of Seat.

Effect of
subsequent
disabilities

24. If any person having been elected or nominated subsequently becomes subject to any of the disabilities stated in clauses (a), (c), (d), (e), (g) and (h) of sub-rule (1) or in sub-rules (2),

(3) and (4) of rule 6 or fails to make the oath or affirmation prescribed by rule 23 within such time as the Chief Commissioner considers reasonable, the Chief Commissioner shall, if the disqualification has not been removed under these rules by notification in the Gazette, declare his seat to be vacant. ^{or failure to take oath.}

First Constitution of the Council.

25. (1) As soon as conveniently may be, after these rules come into force, a council shall be constituted in accordance with their provisions. ^{Constitution of council.}

(2) For this purpose the Chief Commissioner shall, by notification in the Gazette, call upon the constituencies referred to in rule 4 to elect members in accordance with these rules within such time as may be prescribed by such notification, and shall make such nominations as may be necessary to complete the council before the date fixed for its first meeting.

Terms of Office, Vacancies and Special Provision.

26. (1) Save as otherwise provided in this rule, the term of office of a member of the council shall be three years commencing from the date on which he makes the oath or affirmation prescribed by rule 23: ^{Terms of office.}

Provided that official members shall hold office for three years or such shorter period as the Chief Commissioner may, at the time of nomination, determine:

Provided further that the Chief Commissioner may, by notification in the Gazette, extend, for a period of not more than one year, the term of office of members or of any member elected or nominated under these rules.

(2) A member elected or nominated upon an election being declared void or a seat being declared vacant, or to fill a casual vacancy occurring by reason of absence from India, inability to attend to duty, death, acceptance of office or resignation duly accepted, or otherwise, shall hold office as long as the member whose place he fills would have been entitled to hold office if the election had not been declared void or the seat had not been declared vacant, or the vacancy had not occurred, as the case may be.

27. When a vacancy occurs in the case of a nominated or elected member either by reason of the expiration of the period referred to in sub-rule (1) of rule 26 or by reason of an election being declared void, or a seat being declared vacant, or by reason of absence from India, inability to attend to duty, death, acceptance of office or resignation duly accepted, or at any time within three months of the date when such a vacancy will occur in the ordinary course of events, the Chief Commissioner, by notification in the Gazette, shall— ^{Vacancies.}

(a) in the case of a nominated member, nominate a person to the vacancy having the necessary qualifications under these rules; and

- (b) in the case of an elected member, call upon the constituency concerned to elect a member, in accordance with these rules within such time as may be prescribed by such notification.

Power of
local govern-
ment in case
of difficulty.

28. If any difficulty arises as to the preparation or publication of any electoral roll or of any list of amendments to any such roll or as to the holding of any election under these rules, the local government may by order do anything not inconsistent with these rules which appears to it to be necessary for the proper preparation or publication of the roll or list of amendments or for the proper holding of the election, as the case may be.

PART VI.

Final Decision of Doubts and Disputes as to the Validity of an Election.

Definitions.

29. In this Part and in Schedule VII, unless there is anything repugnant in the subject or context,—

- (a) “agent” includes an election agent and any person who is held by Commissioners to have acted as an agent in connection with an election with the knowledge or consent of the candidate;
- (b) “candidate” means a person who has been nominated as a candidate at any election or who claims that he has been so nominated or that his nomination has been improperly refused, and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate at such election, provided that he is subsequently nominated as a candidate at such election;
- (c) “electoral right” means the right of a person to stand or not to stand as, or to withdraw from being, a candidate, or to vote or refrain from voting at an election; and
- (d) “returned candidate” means a candidate whose name has been published under these rules as duly elected.

The election
petition.

30. No election shall be called in question except by an election petition presented in accordance with the provisions of this Part.

Presentation
of the peti-
tion.

31. (1) An election petition against any returned candidate may be presented to the Chief Commissioner—

- (a) by any candidate or elector within fourteen days from the date on which the return of the election expenses of the returned candidate and the declarations, referred to in rule 20, are received by the Returning Officer; or
- (b) within thirty days from that date by an officer empowered by the Chief Commissioner in this behalf, on the ground

that the election has not been a free election by reason of the large number of cases in which undue influence or bribery has been exercised or committed; or

- (c) on the ground that the returned candidate or his election agent or any other person acting with the connivance of the candidate or of his election agent has been guilty of the offence of bribery, undue influence or personation, as defined in Chapter IXA of the Indian Penal Code, in respect of the election, by any candidate or elector within fourteen days from the date on which such returned candidate, election agent or other person is convicted of such offence.

(2) An election petition shall be deemed to have been presented to the Chief Commissioner when it is delivered to the Chief Commissioner or to any officer appointed by him in this behalf—

- (a) by the person making the petition; or
- (b) by a person authorised in writing in this behalf by the person making the petition; or
- (c) by registered post.

(3) When the last day of the period for the presentation of an election petition under this rule is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, or has been notified by the Chief Commissioner as a day to be observed as a holiday in Government offices, the petition shall be considered as having been received in due time if it is presented on the next succeeding day which is neither such a public holiday nor a day so notified.

(4) For the purposes, of clause (a) of sub-rule (1), the date on which the return of the election expenses and the declarations referred to in rule 20 are received by the Returning Officer shall, in the case of a candidate who has made such return and declaration in the manner provided in sub-rule (3) of that rule, be deemed to be the date on which the declaration of the candidate under that sub-rule is received.

32. (1) The petition shall contain a statement in concise form of the material facts on which the petitioner relies, and shall, where necessary, be divided into paragraphs numbered consecutively. It shall be signed by the petitioner and verified in the manner prescribed for the verification of pleadings in the Code of Civil Procedure, 1908. Contents of the petition.

(2) The petition shall be accompanied by a list signed and verified in like manner setting forth full particulars of any corrupt practice which the petitioner alleges, including as full a statement as possible as to the names of the parties alleged to have committed any corrupt practice and the date and place of the commission of each such practice.

(3) The commissioners may, upon such terms as to costs and otherwise as they may direct at any time, allow the particulars

included in the said list to be amended, or order such further and better particulars in regard to any matter referred to therein to be furnished as may in their opinion be necessary for the purpose of ensuring a fair and effectual trial of the petition.

Against
whom it
may be pre-
sented.

33. The petitioner may, if he so desires, in addition to calling in question the election of the returned candidate, claim a declaration that he himself or any other candidate has been duly elected; in which case he shall join, as respondents to his petition, all other candidates who were nominated at the election.

Deposit of
security.

34. At the time of presentation of the petition, the petitioner shall, except where the petition is presented under clause (b) of sub-rule (1) of rule 31, deposit with it the sum of two hundred and fifty rupees in cash or in Government Promissory Notes of equal value at the market rate of the day as security for the cost of the same.

Dismissal for
default.

35. (1) If the provisions of rule 31, rule 32 or rule 34 are not complied with, the Chief Commissioner shall dismiss the petition.

(2) If the petition is not dismissed under sub-rule (1)—

(a) the Chief Commissioner shall appoint as Commissioners for the trial of the petition three persons, of whom one shall be a judicial officer not below the status of a Munsiff of not less than five years' standing and one shall be a pleader, of not less than five years' standing, of any Court which is a High Court within the meaning of clause (24) of section 3 of the General Clauses Act, 1897. The Chief Commissioner shall appoint one of the Commissioners to be the President, and thereafter all applications and proceedings in connection therewith shall be dealt with and held by such Commissioners;

(b) the President of the Commission shall, as soon as may be, cause a copy of the petition to be served on each respondent and to be published in the Gazette, and may call on the petitioners to execute a bond in such amount and with such sureties as he may require for the payment of any further costs. At any time within fourteen days after such publication, any other candidate shall be entitled to be joined as a respondent on giving security in a like amount and procuring the execution of a like bond:

Provided that the execution of such a bond by the petitioner shall not be required in any case where the petition has been presented under clause (b) of sub-rule (1) of rule 31.

(3) When in respect of an election in a constituency more petitions than one are presented the Chief Commissioner shall refer all such petitions to the same Commissioners, who may at their discretion inquire into the petitions either in one or in more proceedings as they shall think fit.

(4) If the services of any Commissioner are not available for the purposes of the inquiry, or if, during the course of the inquiry, any Commissioner is unable to continue to attend the same, the Chief Commissioner shall appoint another Commissioner and the inquiry shall recommence before the Commission as so reconstituted:

Provided that the Commissioners may direct that any evidence already recorded may remain upon the record, in which case it shall not be necessary to re-examine those witnesses who have already been examined and discharged.

(5) Nothing in this rule shall be deemed to prevent the appointment of the President of a Commission before the other Commissioners are appointed and, if the President is so appointed, all references to the Commissioners in these rules shall, in respect of any matter which may be or is to be done before the commencement of the inquiry, be deemed to be references to the President.

36. Subject to the other provisions of these rules, every election petition shall be inquired into by the Commissioners, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits: Inquiry by Commissioners.

Provided that it shall only be necessary for the Commissioners to make a memorandum of the substance of the evidence of any witness examined by them.

37. The inquiry shall be held at such place as the Chief Commissioner may appoint: Place of inquiry.

Provided that the Commissioners may, in their discretion, sit at any other place in the province for any part of the inquiry, and may depute any one of their number to take evidence at any place in the province.

38. (1) An election petition may be withdrawn only by leave of the Commissioners or, if an application for withdrawal is made before any Commissioner has been appointed, of the Chief Commissioner. Withdrawal of petition.

(2) If there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.

(3) When an application for withdrawal is made to the Commissioners, notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Gazette.

(4) No application for withdrawal shall be granted if, in the opinion of the Chief Commissioner or of the Commissioners, as the case may be, such application has been induced by any bargain or consideration which ought not to be allowed.

(5) If the application is granted—

(a) the petitioner shall, where the application has been made to the Commissioners, be ordered to pay the costs of

the respondent theretofore incurred or such portion thereof as the Commissioners may think fit;

(b) notice of the withdrawal shall be published in the Gazette by the Chief Commissioner, or by the Commissioners, as the case may be; and

(c) any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and upon compliance with the conditions of rule 34 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Commissioners may think fit.

Abatement
or substitution
on death
of petitioner.

39. (1) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners:

Provided that, where such sole petitioner was an officer empowered under clause (b) of sub-rule (1) of rule 31, the proceedings may be continued by any other officer empowered in this behalf by the Chief Commissioner.

(2) Notice of the abatement of an election petition shall be published in the Gazette by the Commissioners or, if the petition abates before any Commissioner has been appointed, by the Chief Commissioner.

(3) Any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner, and, upon compliance with the conditions of rule 34 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Commissioners may think fit.

Abatement
or substitution
on death
of respondent.

40. If before the conclusion of the trial of an election petition the respondent dies or gives notice that he does not intend to oppose the petition, the Commissioners shall cause notice of such event to be published in the Gazette, and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted for such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Commissioners may think fit.

Reexamination
when
seat claimed.

41. (1) Where at an inquiry into an election petition any candidate, other than the returned candidate, claims the seat for himself, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented complaining of his election:

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of the publication of the election petition under clause (b) of sub-rule (2) of rule 35, given notice of his intention to the Commissioners and made the deposit and procured the execution of the bond referred to in rules 34 and 35, respectively.

(2) Every notice referred to in sub-rule (1) shall be accompanied by the statement and list of particulars required by rule 32 in the case of an election petition, and shall be signed and verified in like manner.

42. When at an inquiry into an election petition the Commissioners so order, such officer, as the Chief Commissioner may appoint in this behalf shall attend and take such part therein as they may direct. Attendance of Law Officer.

43. (1) Save as hereinafter provided in this rule, if, in the opinion of the Commissioners,— Grounds for declaring election void.

- (a) the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by a corrupt practice, or
- (b) any corrupt practice specified in Part I of Schedule VII has been committed, or
- (c) the result of the election has been materially affected by the improper acceptance or refusal of any nomination or by the improper reception or refusal of a vote, or by the reception of any vote which is void, or by any non-compliance with the provisions of the Act or these rules, or by any mistake in the use of any form annexed thereto, or
- (d) the election has not been a free election by reason of the large number of cases in which undue influence or bribery, within the meaning either of Part I or of Part II of Schedule VII has been exercised or committed.

the election of the returned candidate shall be void.

(2) If the Commissioners report that a returned candidate has been guilty by an agent (other than his election agent) of any corrupt practice specified in Part I of Schedule VII which does not amount to any form of bribery other than treating as herein-after explained or to the procuring or abetment of personation, and if the Commissioners further report that the candidate has satisfied them that—

- (a) no corrupt practice was committed at such election by the candidate or his election agent, and the corrupt practices mentioned in the report were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent, and
- (b) such candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at such election, and
- (c) the corrupt practices mentioned in the said report were of a trivial, unimportant and limited character, and
- (d) in all other respects the election was free from any corrupt practice on the part of such candidate or any of his agents,

then the Commissioners may find that the election of such candidate is not void.

Explanation.—For the purposes of this sub-rule, “treating” means the incurring in whole or in part by any person of the expense of giving or providing any food, drink, entertainment or provision to any person with the object, directly or indirectly, of inducing him or any other person to vote or refrain from voting or as a reward for having voted or refrained from voting.

Report of
Commissioners and
procedure
thereon.

44. (1) At the conclusion of the inquiry, the Commissioners shall report whether the returned candidate, or any other party to the petition who has under the provisions of these rules claimed the seat, has been duly elected, and in so reporting shall have regard to the provisions of rule 43.

(2) The report shall further include a recommendation by the Commissioners as to the total amount of costs which are payable and the persons by and to whom such costs should be paid. Such recommendation may include a recommendation for the payment of costs to the officer attending in pursuance of an order made under rule 42.

(3) The report shall be in writing and shall be signed by all the Commissioners. The Commissioners shall forthwith forward their report to the Chief Commissioner who, on receipt thereof, shall issue orders in accordance with the report and publish the report in the Gazette, and the orders of the Chief Commissioner shall be final.

Form of
reports.

45. If either in their report or upon any other matter there is a difference of opinion among the Commissioners, the opinion of the majority shall prevail, and their report shall be expressed in the terms of the views of the majority.

Finding as
to corrupt
practices
and persons
guilty thereof.

46. Where any charge is made in an election petition of any corrupt practice, the Commissioners shall record in their report—

(a) a finding whether a corrupt practice has or has not been proved to have been committed by any candidate or his agent, or with the connivance of any candidate or his agent, and the nature of such corrupt practice, and

(b) the names of all persons (if any) who have been proved at the inquiry to have been guilty of any corrupt practice and the nature of such corrupt practice with any such recommendations as they may desire to make for the exemption of any such person from any disqualifications they may have incurred in this connection under these rules:

Provided that no person shall be so named in the report unless he has been given a reasonable opportunity of showing cause why his name should not be so recorded.

PART VII.

Special Provision.

47. If any question arises as to the interpretation of these rules otherwise than in connection with an election inquiry held there-
under, the question shall be referred for the decision of the Chief
Commissioner, and his decision shall be final. Interpreta-
tion in case
of doubt.

SCHEDULE I.

(See rule 5.)

LIST OF CONSTITUENCIES.

Name of constituency.	Class of constituency.	Extent of constituency.	Number of members.
1	2	3	4
European	European .	The Province of Coorg . .	2
Somwarpet-Sanivarsante-Fraserpet (Jama).	Jama .	Somwarpetnad, Sanivarsante Hobli and Fraserpet Hobli of the North Coorg Taluk.	1
Mercara-Bhagmandala-Suntikoppa (Jama).	Do. .	Mercaranad, Bhagmandalanad and Suntikoppnad of the North Coorg Taluk.	2
Virajpet-Napoklu-Ammatti (Jama).	Do. .	Virajpetnad, Napoklunad and Ammattinad of the South Coorg Taluk.	3
Ponnampet-Srimangala (Jama)	Do. .	Ponnampetnad and Srimangalanad of the South Coorg Taluk.	3
Somwarpet-Sanivarsante-Fraserpet.	Non-Jama .	Somwarpetnad, Sanivarsante Hobli and Fraserpet Hobli of the North Coorg Taluk.	1
Mercara-Bhagmandala-Suntikoppa.	Do. .	Mercaranad, Bhagmandalanad and Suntikoppnad of the North Coorg Taluk.	1
Virajpet-Napoklu-Ammatti .	Do. .	Virajpetnad, Napoklunad and Ammattinad of the South Coorg Taluk.	1
Ponnampet-Srimangala . .	Do. .	Ponnampetnad and Srimangalanad of the South Coorg Taluk.	1

SCHEDULE II.

(See *rule 9.*)

QUALIFICATIONS OF ELECTORS.

Definitions.

1. For the purposes of this Schedule—

- (a) “ previous year ” means the financial year preceding that in which the electoral roll, or the list of amendments thereto, as the case may be, for the time being under preparation is first published under these rules;
- (b) “ European ” means any person of European descent in the male line being a British subject and resident in British India, who either was born in or has a domicile in the United Kingdom or in any British possession or in any State in India, or whose father was so born or has or had up to the date of the birth of the person in question such a domicile;
- (c) “ jama tenure land ” means land assessed at one-half the normal (*sagu*) rate of assessment;
- (d) “ non-jama tenure land ” means land assessed at the full normal (*sagu*) rate of assessment.

Revenue
accounts,
etc., to be
conclusive
evidence.

2. For the purpose of determining any claim to a qualification under this Schedule, the entries in the land revenue accounts regarding the amounts of assessment and rent payable, and the entries in municipal records regarding the amounts of taxes assessed or paid shall be conclusive evidence of the facts stated therein.

European
constituency.

3. A person shall be qualified as an elector for the European constituency who is a European and who resided in the constituency for not less than one hundred and twenty days in the previous year, and who—

- (a) is a member of one of the Associations affiliated to the United Planters' Association of Southern India; or
- (b) possesses any of the qualifications hereinafter prescribed for an elector for a jama or a non-jama constituency; or
- (c) is a retired, pensioned or discharged officer, non-commissioned officer, or soldier of His Majesty's regular forces who has served as such officer, non-commissioned officer or soldier for an aggregate period of not less than 3 years.

Jama con-
stituencies.

4. A person shall be qualified as an elector for a jama constituency who is not a European and who resided in the constituency for not less than one hundred and twenty-days in the previous year, and who—

- (a) owns jama tenure land, the land revenue of which has been assessed or is assessable at not less than five rupees per annum; or

- (b) owns both jama tenure and non-jama tenure land, the aggregate land revenue of which would be assessable at the jama tenure rate at not less than five rupees per annum; or
- (c) is a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces who has served as such officer, non-commissioned officer, or soldier for an aggregate period of not less than three years.

5. A person shall be qualified as an elector for a non-jama constituency who is not a European and who resided in the constituency for not less than one hundred and twenty days in the previous year, and who—

- (a) owns non-jama tenure land, the land revenue of which has been assessed or is assessable at not less than ten rupees per annum; or
- (b) was in the previous year assessed to income-tax; or
- (c) was in the previous year assessed to an aggregate amount of not less than Rs. 10 in respect of one or more of the following taxes, namely:—
 - (i) house tax of the nature referred to in clause (b) of section 2 of the Coorg District Fund Regulation, 1900;
 - (ii) any tax imposed under sub-clause (i), sub-clause (ii) or sub-clause (iii) of clause (a) of section 35 of the Coorg Municipal Regulation, 1907; or
- (d) is a retired pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces who has served as such officer, non-commissioned officer, or soldier for an aggregate period of not less than three years.

6. If property is held or payments are made jointly by the members of a joint family or by joint pattedars, the family or joint holding shall be adopted as the unit for deciding whether under this Schedule the requisite qualification exists; and, if it does exist, the person qualified shall be the member authorised by a majority of the family or of the joint holders, or, in the case of a Hindu joint family, the manager thereof unless some other member is authorised as aforesaid.

7. A person may be qualified either in his personal capacity or in the capacity of a representative of a joint family or of joint pattedars, but not in both capacities.

8. Save as provided in paragraph 6 of this Schedule, no person shall be qualified as an elector in respect of any property unless he possesses the prescribed property qualification in his own personal right, and not in a fiduciary capacity.

Non-jama
constitu-
encies.

Joint
families.

Person not
qualified in
both per-
sonal and
representa-
tive capacity.

Fiduciary
capacity not
recognized.

SCHEDULE III.

(See *rule 10.*)

1. In this Schedule—

- (a) “ Returning Officer ” means such officer as the Chief Commissioner may, by notification in the Gazette, appoint for a constituency to perform all or any of the duties of the Returning Officer under this Schedule, and includes any officer deputed for the time being by the Returning Officer to perform any such duty;
- (b) “ Revising Officer ” means such officer as the Chief Commissioner may appoint to be Revising Officer for a constituency.

2. During the month of July in any year in which an electoral roll is to be prepared, the Returning Officer shall prepare and publish at the place declared by the Chief Commissioner by notification in the Gazette to be the headquarters of the constituency and at such other places as he may think fit, a draft electoral roll in the Form annexed to this Schedule, together with a notice stating that any objections relating to entries in or omissions from the electoral roll may be preferred to the Revising Officer on or before the 31st of August. The roll shall be prepared in English and in Canarese and in such other language or languages as the Chief Commissioner may direct.

3. The Revising Officer shall fix a place, and a date not later than the 30th of September, for hearing objections to the electoral roll, and shall give notice of the place and date so fixed to all parties concerned in such manner as the Chief Commissioner may prescribe.

4. The Revising Officer may, before the date fixed by him under paragraph 3, of his own motion revise the electoral roll; any alteration in the roll made on such revision shall be published before such date and in such manner as the Chief Commissioner may prescribe.

5. The Revising Officer shall, at the place and on the date fixed under paragraph 3, hear and decide objections to the draft electoral roll as also to any revision of the roll made by him on his own motion.

6. On the 1st of October the Revising Officer shall send a copy of the electoral roll as revised, to the Returning Officer.

7. The Returning Officer shall re-publish the electoral roll, as so revised, at the place declared by the Chief Commissioner by notification in the Gazette to be the headquarters of the constituency and at such other places, as he may think fit, on or before the 31st October.

8. The Chief Commissioner may by notification in the Gazette, substitute any period or date for any period or date, as the case may be, specified in this Schedule.

THE FORM.

Electoral roll for *Constituency.*

Part Registration area

Section Polling area No. comprising the following villages.

comprising the following wards or divisions.

Serial number.	Name.	Father's or Pattedar's name.	Address (village or street and door number).	Head of qualification.
(1)	(2)	(3)	(4)	(5)

SCHEDULE IV.

(See rule 12.)

FORM OF NOMINATION PAPER.

NOMINATION PAPER.

Name of the constituency for which the candidate is nominated

Name of candidate

Father's name

Age

Address

Denomination (*state whether European or Indian*)

Constituency on the electoral roll of which the candidate is registered as an elector

*No. of the candidate in the electoral roll of the constituency in which he is registered as an elector

Name of proposer

*No. of the proposer in the electoral roll of the constituency

Signature of the proposer

Name of the seconder

*No. of the seconder in the electoral roll of the constituency

Signature of the seconder

Declaration by Candidate.

I hereby declare that I agree to this nomination.

Date Signature of Candidate.

* Where the electoral roll is sub-divided and separate serial numbers are assigned to the electors entered in each sub-division, a description of the sub-division in which the name of the person concerned is entered must also be given here.

(To be filled in by the Returning Officer or other authorised person.)
Certificate of delivery.

Serial Number .

This nomination paper was delivered to me at my office at (date and hour).

Returning Officer or other authorised person.

Certificate of Scrutiny.

I have scrutinized the eligibility of the candidate, the proposer and seconder, and find that they are respectively qualified to stand for election, to propose and to second the nomination.

Returning Officer.

SCHEDULE V.

(See rule 16.)

1. The Chief Commissioner shall, by notification in the Gazette, appoint for each constituency a Returning Officer who shall, in respect of such constituency, perform all the functions of the Returning Officer under this Schedule:

Provided that such of the functions of the Returning Officer as the Chief Commissioner may specify by a like notification in this behalf may be performed by such other person as may be so specified, and any such person shall, with reference to the performance of any such function, be deemed to be the Returning Officer for the purposes of this Schedule.

Scrutiny of Nominations.

2. On the date appointed by the Chief Commissioner for the scrutiny of nominations under sub-rule (2) of rule 12, the candidates, their election agents, one proposer, and one seconder of each candidate, and one other person, duly authorised in writing by each candidate, but no other person, may attend at such time and place as the Returning Officer may appoint, and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner prescribed in rule 12.

3. (1) The Returning Officer shall examine the nomination papers and shall decide all objections which may be made to any nomination, and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, refuse any nomination on any of the following grounds:—

(i) that the candidate is ineligible for election under rule 6 or rule 7;

(N.B.—This nomination paper will not be valid unless it is delivered to the Returning Officer, or other person authorised to receive it, at his office before 3-0 p.m. on

- (ii) that a proposer or seconder is disqualified from subscribing a nomination paper under sub-rule (4) of rule 12;
- (iii) that there has been any failure to comply with any of the provisions of rule 12 or rule 13;
- (iv) that the candidate or any proposer or seconder is not identical with the person whose electoral number is given in the nomination paper as the number of such candidate, proposer or seconder, as the case may be;
- (v) that the signature of the candidate or of any proposer or seconder is not genuine or has been obtained by fraud.

(2) For the purposes of this paragraph—

- (a) the production of any certified copy of an entry made in the electoral roll of any constituency shall be conclusive evidence of the right of any elector named in that entry to stand for election or to subscribe a nomination paper, as the case may be, unless it is proved that the candidate is disqualified under rule 6 or rule 7 or, as the case may be, that the proposer or seconder is disqualified under sub-rule (4) of rule 12, and
- (b) where a person has subscribed whether as proposer or seconder a larger number of nomination papers than there are vacancies to be filled, those of the papers so subscribed which have been first received, up to the number of vacancies to be filled, shall be deemed to be valid.

(3) Nothing contained in clause (ii), clause (iii), clause (iv), or clause (v) of sub-paragraph (1) shall be deemed to authorise the refusal of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

4. (1) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(2) The scrutiny shall be completed on the day appointed in this behalf under clause (b) of sub-rule (2) of rule 12, and no adjournment of the proceedings shall be allowed.

5. On completion of the scrutiny of nominations and after the expiry of the period within which candidatures may be withdrawn under sub-rule (8) of rule 12, the Returning Officer shall forthwith prepare a list of valid nominations and cause it to be affixed in some conspicuous place in his office.

6. If the number of duly nominated candidates is greater than the number of vacancies, the Returning Officer shall forthwith publish in the Gazette, and in such other manner as the Chief Commissioner may prescribe, and in such places in the constituency

as he may consider necessary, the names of the candidates as given in the nomination papers in alphabetical order.

Voting in Jama and non-Jama Constituencies.

7. The Chief Commissioner shall appoint the hour at which the poll shall commence and the hour at which it shall close on the date appointed for the poll under clause (c) of sub-rule (2) of rule 12. The hours so fixed shall be published by notification in the Gazette and in such other manner as the Chief Commissioner may direct.

8. (1) The Returning Officer shall select for each constituency as many polling stations as he thinks necessary, and shall publish, in such manner as the Chief Commissioner may prescribe, a list showing the polling stations so selected, and the polling areas for which they have respectively been selected.

(2) The Returning Officer shall appoint a presiding officer for each polling station and such other persons (hereinafter referred to as polling officers) to assist the presiding officer as he thinks necessary.

9. (1) The presiding officer shall keep order at the polling station, shall see that the election is fairly conducted, shall regulate the number of electors to be admitted at one time, and shall exclude all other persons except—

(a) the polling officers, the candidates, and one agent of each candidate (hereinafter referred to as the polling agent) appointed in writing by the candidate, and authorised in this behalf by the Returning Officer,

(b) the police or other public servants on duty, and

(c) such other persons as the presiding officer may from time to time admit for the purpose of identifying electors.

(2) The presiding officer shall close the polling station at the hour appointed in that behalf by the Chief Commissioner under paragraph 7, so as to prevent the admission thereto of any voter after that hour.

10. No ballot paper shall be issued after the closing hour appointed under paragraph 7, but any voter who has received his ballot paper before that hour shall be allowed a reasonable opportunity to record his vote.

11. Each polling station shall be furnished with such number of compartments, in which voters can record their votes screened from observation, as the Returning Officer thinks necessary.

12. (1) The Returning Officer shall provide at each polling station materials sufficient for the purpose of enabling voters to mark the ballot papers, instruments for stamping the official mark on such papers, as many ballot boxes as may be necessary, and copies of the electoral roll or of such part thereof as contains the names of the electors entitled to vote at such station.

(2) The official mark shall be kept secret, and a period of not less than seven years shall intervene between the use of the same official mark at elections for the same constituency.

13. Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, immediately before the commencement of the poll, shall show the ballot box empty to such persons as may be present in such station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers and keep it so locked and sealed.

14. Before the polling station is open for the recording of votes, the presiding officer shall read to such persons as may be present the provisions of section 14 of the Election Offences and Inquiries Act, 1920, and shall explain the substance thereof in the vernacular of the district.

15. Immediately before a ballot paper is delivered to an elector, it shall be marked on the back with the official mark, and the number, name and description of the elector as stated in the electoral roll shall be called out, and the number of the elector shall be entered on the counterfoil, and a mark shall be placed in a copy of the electoral roll against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received. On the counterfoil shall be entered the name of the constituency and the name or distinctive number of the polling station.

16. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station, and there mark his paper, and fold it up so as to conceal his vote, and, after shewing to the presiding officer the official mark, shall put his ballot paper, so folded up, into the ballot box. Every elector shall vote without undue delay and shall quit the polling station as soon as he has put his ballot paper into the ballot box.

17. The presiding officer shall give such assistance as may be required to any elector who is by reason of infirmity or illiteracy unable to vote in the manner prescribed.

18. At any time before a ballot paper is delivered to an elector, the presiding officer or polling officer may, of his own accord, if he has reason to doubt the identity of the elector or his right to vote at such station, and shall, if so required by a candidate or polling agent, put to the elector the following questions:—

(1) Are you the person enrolled as follows (reading the whole entry from the roll)?

(2) Have you already voted at the present election in this constituency and at a general election?

- (3) Have you already voted at this general election for the legislative council in any other constituency?

and the elector shall not be supplied with a ballot paper if he refuses to answer one of the questions and unless he answers the first question in the affirmative, the second question in the negative, and, at a general election, the third question also in the negative.

19. The ballot paper shall be in Form I annexed to this Schedule. The ballot papers shall be serially numbered, the serial number being printed on the face of the counterfoil and on the back of the ballot paper.

20. If a person representing himself to be a particular elector named on the electoral roll applies for a ballot paper after another person has voted as such elector, the applicant shall, after duly answering such questions as the presiding officer may ask, be entitled to mark a ballot paper in the same manner as any other voter. Such ballot paper (hereinafter referred to as a tendered ballot paper) shall be of a colour different from the other ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number on the electoral roll and the name of the electoral area to which the roll relates, and shall be set aside in a separate packet and shall not be counted by the Returning Officer. The name of the voter and his number in the electoral roll and the name or distinctive number of the polling station to which the roll relates shall be entered in a list in Form II annexed to this Schedule, which shall bear the heading "Tendered votes list". The persons tendering such ballot paper shall sign his name and address thereon or affix his thumb impression against the entry in that list.

21. If any polling agent declares and undertakes to prove that any person by applying for a ballot paper has committed the offence of personation, the presiding officer may require such person to enter in the list of challenged votes (which shall be in Form III annexed to this Schedule) his name and address, or, if he is unable to write, to affix his thumb impression thereto, and may further require such person to produce evidence of identification. If such person on being questioned in the manner provided in paragraph 18 answers the first question in the affirmative and the other questions in the negative, he shall be allowed to vote after he has been informed of the penalty for personation. The presiding officer shall make a note of the circumstances and of his decision on the list of challenged votes.

22. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot conveniently be used as a ballot paper may, on delivering it to the presiding officer and satisfying him of the inadvertence, obtain another ballot paper in place of the spoilt paper, and the latter shall, together with its counterfoil, be marked as cancelled.

23. A presiding officer, polling officer, or polling agent who is on duty at a polling station at which he is not entitled to vote shall, if he is certified by a Returning Officer to be entitled to vote at the election for the constituency in connection with which he is employed or for any other constituency, be allowed to record his vote at that polling station. The name of the polling station at which he would otherwise have been entitled to vote shall be entered in the counterfoil of the ballot paper, together with his number in the electoral roll for the constituency in which that polling station is situated.

24. Such ballot paper shall be placed in an envelope and sealed by the presiding officer and returned with the certificate referred to in paragraph 23 to the Returning Officer who has granted the same, and such Returning Officer shall cause such vote to be included among the other votes given for the candidate designated by the voter.

25. The presiding officer of each polling station, as soon as practicable after the close of the poll, shall, in the presence of any candidates or polling agents who may be present, make up into separate parcels and seal with his own seal and the seal of such candidates or agents as may desire to affix their seal:—

- (1) each ballot box in use at each station unopened but with the key attached;
- (2) the unused ballot papers;
- (3) the tendered ballot papers;
- (4) the spoilt ballot papers;
- (5) the marked copy of the electoral roll;
- (6) the counterfoils of the ballot papers;
- (7) the tendered votes list; and
- (8) the list of challenged votes;

and shall deliver such packets to the Returning Officer.

26. The packets shall be accompanied by a statement made by the presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, and ballot papers dealt with under paragraph 23.

Voting in the European Constituency.

27. The Returning Officer shall forward by registered posts to each elector the outerfoil of a ballot paper bearing on each side an official mark, at the same time noting on the corresponding counterfoil the number of the elector on the elector roll.

28. The elector shall mark a cross on the ballot paper against the name of the candidate or candidates for whom he intends to vote. He shall place the ballot paper in a closed envelope, and

return the closed envelope, together with a covering letter bearing his signature in a second cover, to the Returning Officer so that it shall reach the Returning Officer not later than the day fixed for the election.

29. On receipt of the papers from the elector the Returning Officer shall make a mark against the entry of the elector's name in the electoral roll to denote that the elector has returned a ballot paper, and shall place the closed envelope containing the ballot paper in a securely locked ballot box.

30. If a ballot paper is received purporting to come from a particular elector named on the electoral roll after another ballot paper has been received purporting to come from such elector, the closed envelope shall be endorsed by the Returning Officer with the name of the elector and his number on the electoral roll and set aside in a separate packet. The ballot paper contained in such closed envelope shall be treated as a tendered ballot paper and shall not be counted by the Returning Officer.

31. As soon as practicable after the close of the poll, the Returning Officer shall make up into separate packets and seal with his own seal—

- (1) the ballot box unopened but with the key attached;
- (2) the unused ballot papers;
- (3) the tendered ballot papers;
- (4) the marked copy of the electoral roll; and
- (5) the counterfoils of the ballot papers.

32. The Returning Officer shall also prepare a statement showing the number of ballot papers provided by him and accounting for them under the heads of ballot papers in the ballot box, tendered ballot papers and ballot papers not returned.

33. Any ballot paper which is not duly marked or on which votes are given to more candidates than there are members to be elected or on which (or on the closed envelope containing which) any mark is made, except as provided in paragraph 28, by which the voter may afterwards be identified shall be invalid.

Counting of Votes.

34. The Returning Officer shall, as soon as may be practicable after the close of the poll, appoint a date, time and place for the counting of votes and shall give notice in writing thereof to all candidates and election agents.

35. (1) No person shall be allowed to be present at the counting of the votes except the Returning Officer and such persons as he may appoint to assist him in counting the votes, and such other persons as have a right to be present under sub-rule (6) of rule 15.

(2) No person shall be appointed to assist in counting the votes who has been employed by or on behalf of any candidate for any purpose whatsoever connected with the election.

36. On the day and at the time appointed under paragraph 34, the Returning Officer shall, before he commences to count the votes, read the provisions of section 14 of the Indian Election Offences and Inquiries Act, 1920, to such persons as may be present, and shall then proceed as follows:—

- (a) The ballot box or boxes shall be opened one after another, the boxes received from any one polling station being opened consecutively, and the Returning Officer shall take out the papers therefrom, count them or cause them to be counted, and record the number thereof in a statement. Such statement shall not be shewn to any candidate or agent.
- (b) The Returning Officer shall then mix together all the ballot papers so taken out from the ballot boxes and distribute them in convenient bundles to the persons appointed to assist in counting the votes.
- (c) When the ballot papers have been so distributed, but not before, the Returning Officer shall allow the candidate and their agents reasonable opportunity to inspect, without handling, the ballot papers, and shall on every ballot paper which is wholly or partially rejected endorse the word "rejected". If any candidate or agent present questions the correctness of the rejection, the Returning Officer shall also record on the ballot paper the grounds for the rejection. No candidate or agent shall be allowed to see the serial number on the back of any ballot paper.
- (d) The Returning Officer shall, as far as practicable, proceed continuously with the counting of the votes; and shall, during any necessary intervals during which the counting has to be suspended, place the ballot papers, packets and other documents relating to the election under his own seal and the seals of such candidates or agents as may desire to affix them, and shall cause adequate precautions to be taken for their custody.

37. (1) A ballot paper shall be rejected—

- (a) if it has not on its back the official mark,
- (b) if the number of votes recorded thereon exceeds the number of vacancies to be filled,
- (c) if no vote is recorded thereon,
- (d) if it is void for uncertainty,
- (e) if it bears any mark by which the elector can be identified.

(2) The decision of the Returning Officer as to the validity of a ballot paper shall be final, subject only to reversal on an election petition claiming the seat.

38. The Returning Officer shall not open the sealed packets of the tendered votes, the marked copy of the electoral roll or the counterfoils of the ballot papers. He shall verify the statement submitted by the presiding officer under paragraph 26 or prepared by himself under paragraph 32 as the case may be, by comparing it with the number of counted votes and rejected ballot papers, the unused ballot papers in his possession and the tendered votes list, and shall then reclose and reseal each packet which has been opened by him, and record on each packet a description of its contents and the date of the election to which it refers.

39. The Returning Officer shall then prepare and certify a return setting forth—

- (1) the result of the verification referred to in paragraph 38,
- (2) the names of the candidates for whom valid votes have been given,
- (3) the number of valid votes given for each candidate,
- (4) the name of the candidate elected,
- (5) the number of votes declared invalid, and
- (6) the number of tendered votes given,

and shall permit any candidate or any representative duly authorised under sub-rule (6) of rule 15 to take a copy or an extract from such return.

40. The Returning Officer shall, after reporting the result of the election under rule 15, forward the return and all the packets relating to the election in his possession to such officer as may be appointed by the Chief Commissioner in this behalf.

41. While in the custody of the officer to whom they have been so forwarded, the packets of ballot papers whether counted, rejected or tendered, and of the counterfoils thereof, shall not be opened and their contents shall not be inspected or produced except under the order of a competent Court or of Commissioners appointed to hold an inquiry in respect of an election, but all other documents relating to the election shall be opened to public inspection subject to such conditions and to the payment of such fee, if any, as the Chief Commissioner may impose.

42. The packets aforesaid shall be retained for a period of one year and shall thereafter be destroyed subject to any direction to the contrary made by the Chief Commissioner, or by a competent Court or by Commissioners appointed to hold an inquiry in respect of an election.

FORM I.

FORM OF FRONT OF BALLOT PAPER.

Counterfoil.

Serial No.

Outerfoil,
Front.

Constituency

Number of polling
stationNumber of elector on
electoral roll

✱	Roy	
✱	Chaudhuri	
✱	Chatterji	
✱	Bannerji	
✱	Ghosh	

Back of Outerfoil.

Instructions.

- (1) The number of members for whom you may vote is
 (2) Place a cross mark thus x against the name of the candidate
 (3) The mark should be placed against not more than each of the candidate

Serial No.

FORM II.

TENDERED VOTES LIST.

Polling station

Name of Constituency.	Name of Voter.	Number in Electoral Roll.	Number of votes recorded.
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FORM III.

LIST OF CHALLENGED VOTES.

Signature Sheet No.

Number on Electoral Roll.	Name.	Signature of voter if literate or thumb impression of voter if illiterate.	Name of identifier, if any.
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Order of Presiding Officer (in each case).

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SCHEDULE VI.

(See rule 20.)

1. The form of the return of election expenses referred to in rule 20 shall be as follows:—

FORM OF RETURN OF ELECTION EXPENSES.

For the constituency.

Receipts.	Rs.	Expenditure.	Rs	Voucher No.
Received of A. B., candidate for the above constituency. (Or when the candidate is his own election agent.) Paid by me, A. B., candidate for the above constituency.		(A) THE PERSONAL EXPENDITURE OF THE CANDIDATE INCURRED OR PAID BY HIM OR BY HIS ELECTION AGENT ON HIS BEHALF INCLUDING TRAVELLING AND ALL OTHER PERSONAL EXPENSES INCURRED IN CONNECTION WITH HIS CANDIDATURE;		
Received of (1) (2) (3) (4) etc., etc.		Paid by me, C. D., as election agent. (Or when the candidate is his own election agent.) Paid by me, A. B., candidate as my own election agent. (1) On (2) On (3) On (4) On (1) Paid to on (2) Paid to on (3) Paid to on (4) Paid to on etc., etc.		
Total Receipts ..				
(Here set out the name and description of every person, whether the candidate or not, and of every club, society, or association, from whom any money, securities or equivalent of money was received in respect of expenses incurred on account of or in connection with or incidental to the above election. The amount received from each such person, club, society, etc., to be shown separately.)		(Details of all expenditure incurred by or on behalf of the candidate whether in payment for personal services rendered, on account of hotel bills, for travelling whether by rail or in hired conveyance, or for the purchase of books or election literature, etc., must be shown, either in the account or in a separate list annexed to and referred to in the account.) (B) THE NAME, AND THE RATE AND TOTAL AMOUNT OF THE PAY, OF EACH PERSON EMPLOYED AS AN AGENT (INCLUDING THE ELECTION AGENT), CLERK OR MESSENGER; Received by me, C. D., as election agent for A. B. (When the candidate is his own election agent the above item will be omitted.)		

FORM OF RETURN OF ELECTION EXPENSES—*contd.*

Receipts.	Rs.	Expenditure.	Rs.	Voucher No.
		<p>(1) Paid to sub agent at as</p> <p>(2)</p> <p>(3)</p> <p>(4) etc.</p> <p><i>(The name and description of each sub-agent and any sum paid to him must be set out separately.)</i></p> <p>(1) Paid to as polling agent at the polling station of</p> <p>(2)</p> <p>(3)</p> <p>(4)</p> <p>(1) Paid to as clerk for day's services.</p> <p>(2)</p> <p>(1)</p> <p>(4)</p> <p>(1) Paid to messenger as for day's service.</p> <p>(2)</p> <p>(3)</p> <p>(4) etc.</p> <p><i>(The names and descriptions of every agent, clerk and messenger, and the sum paid to each, must be set out separately either in the account or in a separate list annexed to and referred to in the accounts with the receipted vouchers of the person employed.)</i></p> <p>(C) THE TRAVELLING EXPENSES AND ANY OTHER EXPENSES INCURRED BY THE CANDIDATE OR HIS ELECTION AGENT ON ACCOUNT OF AGENTS (INCLUDING THE ELECTION AGENT), CLERKS OR MESSENGERS;</p>		

FORM OF RETURN OF ELECTION EXPENSES—*contd.*

Receipts.	Rs.	Expenditure.	Rs.	Voucher No.
		<p>Received by me for travelling expenses as election agent.</p> <p>(1) On R</p> <p>(2) On R</p> <p>(3) On R</p> <p style="text-align: right;">Total .</p>		
		<p>(If the candidate is his own election agent, leave out the above items.)</p> <p>(1) Paid to sub-agent of the polling district of as travelling expenses.</p> <p>(2)</p> <p>(3)</p> <p>(4)</p> <p>(The name and description of every sub-agent or polling agent and the sum paid to each on account of travelling or any other expenses must be set out separately either in the account or in a separate list annexed to and referred to in the account, which should include purchase of tickets by rail, hire of vehicles or refreshments provided.)</p> <p>(1) Paid to as clerk for travelling expenses.</p> <p>(2)</p> <p>(3)</p> <p>(4)</p> <p>(The name and description of every clerk and the sum paid to him on account of travelling or any other expenses must be set out separately either in the account or in a separate list annexed to and referred to in the account, which should include purchase of tickets by rail, hire of vehicles or refreshments provided.)</p> <p>(1) Paid to as messenger for travelling expenses.</p> <p>(2)</p> <p>(3)</p> <p>(4)</p>		

FORM OF RETURN OF ELECTION EXPENSES—*contd.*

Receipts.	Rs.	Expenditure.	Rs.	Voucher No.
		<p>(The name and description of every messenger and the sum paid to him on account of travelling or any other expenses must be set out separately either in the account or in a separate list annexed to and referred to in the account, which should include purchase of tickets by rail, hire of vehicles or refreshments provided.)</p> <p>(D) THE TRAVELLING EXPENSES OF PERSONS, WHETHER IN RECEIPT OF SALARY OR NOT INCURRED IN CONNECTION WITH THE CANDIDATURE, AND WHETHER PAID OR INCURRED BY THE CANDIDATE, HIS ELECTION AGENT OR THE PERSON SO TRAVELLING ;</p> <p>(Under this head should be included any payments made by the candidate, or by the election agent on account of any person who travels in connection with the candidature other than persons whose travelling expenses have been shown in the statement under C above.)</p> <p>(E) THE COST WHETHER PAID OR INCURRED OF—</p> <p>(i) printing,</p> <p>(ii) advertising,</p> <p>(iii) stationery,</p> <p>(iv) Postage,</p> <p>(v) telegrams, and</p> <p>(vi) rooms hired later for public meetings or as committee rooms.</p> <p>(i) Paid on account of printing—</p> <p>(1) To on</p> <p>(2) To on</p> <p>(3) To on</p> <p>(4) To on</p> <p>Total Printing ..</p>		

FORM OF RETURN OF ELECTION EXPENSES—*contd.*

Receipts.	Rs.	Expenditure.	Rs.	Voucher No.
		<p>(The name and description of each person and the nature of the goods supplied, or the work and labour done by each must be set out separately either in the account or in a separate list annexed to and referred to in the account with receipted vouchers for all sums above Rs. 5.)</p> <p>(ii) Paid on account of Advertising—</p> <p>(1) To on</p> <p>(2) To on</p> <p>(3) To on</p> <p>(4) To on</p> <p>Total Advertising ..</p> <p>(The name and description of each person and the nature of the goods supplied, or the work and labour done by each must be set out separately either in the account or in a separate list annexed to and referred to in the account with receipted vouchers for all sums above Rs. 5.)</p> <p>(ii) Paid on account of Stationery—</p> <p>(1) To on</p> <p>(2) To on</p> <p>(3) To on</p> <p>(4) To on</p> <p>Total Stationery ..</p> <p>(The name and description of each person and the nature of the goods supplied, or the work and labour done by each must be set out separately either in the account or in a separate list annexed to and referred to in the account with receipted vouchers for all sums above Rs. 5.)</p> <p>(iv) Paid on account of Postage.</p> <p>(Lump sum may be shewn.)</p> <p>(v) Paid on account of Telegrams.</p> <p>(Lump sum may be shewn.)</p>		

FORM OF RETURN OF ELECTION EXPENSES—*concl'd.*

Receipts.	Rs.	Expenditure.	Rs.	Voucher No.
		<p>(vi) Paid for the hire of room.</p> <p><i>(A room hired for a public meeting or for a Committee room or for an office must be named or described so as to identify it, and the name and description of every person to whom any payment was made for each such room, together with the amount paid, must be set out separately either in the account or in a separate list annexed to and referred to in the account).</i></p> <p>(F) ANY OTHER MISCELLANEOUS EXPENSES WHETHER PAID OR INCURRED.</p> <p>Paid to _____ on _____ to _____ on _____</p> <p><i>(The name and description of each person to whom any sum is paid, and the reason, for which it was paid to him, must be set out separately either in the account or in a separate list annexed to and referred to in the account.)</i></p> <p>In addition to the above, I am aware as election agent for (C. D.), of the following disputed and unpaid claims, namely :—</p> <p>Disputed claims by _____ for _____</p> <p><i>(Here set out the name and description of each person whose claim is disputed, the amount of the claim and the goods work or other matter on the ground of which the claim is based.)</i></p> <p>Unpaid claims by _____ for _____</p> <p><i>(Here state the name and description of each person to whom any such claim is due, and the amount of the claim and the goods, work and labour or other matter on account of which the claim is due.)</i></p>		

2. The form of the declarations referred to in rule 20 shall be as follows:—

Form of Declaration by Election Agent.

I, _____ being the appointed election agent for _____ a candidate for election in the _____ constituency, do hereby solemnly affirm that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in, or for the purposes of, _____'s candidature.

Election Agent.

Solemnly affirmed before me.

Magistrate.

Form of Declaration by Candidate.

I, _____ being a candidate for election in the _____ constituency, do hereby solemnly affirm that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in, or for the purposes of, my candidature.

Candidate.

Solemnly affirmed before me.

Magistrate.

Special Form of Declaration by a Candidate under rule 20, sub-rule (3).

I, _____ being a candidate for election in the _____ constituency, do hereby solemnly affirm that the return of election expenses signed by my election agent is (with the exceptions noted below) true to the best of my knowledge and belief, and that (with the exceptions noted below) no expenses of any nature whatsoever other than the expenses therein set forth have to my knowledge or belief been incurred in or for the purposes of my candidature.

Particulars of Exceptions.

Candidate.

Solemnly affirmed before me.

Magistrate.

SCHEDULE VII.

(See rules 6, 8, 29 and 43.)

The following shall be deemed to be corrupt practices for the purposes of these rules:—

PART I.

1. A gift, offer or promise by a candidate or his agent, or by Bribery.
any other person with the connivance of a candidate or his agent,
of any gratifications to any person whomsoever, with the objects,
directly or indirectly; of inducing—

- (a) a person to stand or not to stand as, or to withdraw from
being, a candidate, or
- (b) an elector to vote or refrain from voting at an election, or
as a reward to—
 - (i) a person for having so stood or not stood or for having
withdrawn his candidature, or
 - (ii) an elector for having voted or refrained from voting.

Explanation.—For the purpose of this clause the term “ gratification ” is not restricted to pecuniary gratifications or gratifications estimable in money, and includes all forms of entertainment and all forms of employment for reward; but it does not include the payment of any expenses *bonâ fide* incurred at or for the purposes of any election and duly entered in the return of election expenses prescribed by these rules.

2. Any direct or indirect interference or attempt to interfere on Undue
the part of a candidate or his agent or of any other person with the influence.
connivance of the candidate or his agent with the free exercise of
any electoral right.

Explanation.—(1) Without prejudice to the generality of the provisions of this paragraph, any such person as is referred to herein who—

- (a) threatens any candidate or voter or any person in whom a
candidate or voter is interested, with injury of any kind;
or
- (b) induces or attempts to induce a candidate or voter to believe
that he or any person in whom he is interested will
become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter within the meaning of this clause.

(2) A declaration of public policy or a promise of public action or the mere exercise of a legal right without intent to interfere with an electoral right shall not be deemed to be interference within the meaning of this paragraph.

Personation.

3. The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or by a person who has voted once at an election for a voting paper in his own name at the same election.

Publication
of false
statements.

4. The publication by a candidate or his agent, or by any other person with the connivance of the candidate or his agent, of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidate, which statement is reasonably calculated to prejudice the prospect of such candidate's election.

Authorisa-
tion of
expenditure.

5. The incurring or authorising by a candidate or his agent of expenditure or the employment of any person by a candidate or his agent in contravention of the provisions of any notification of the Governor General in Council issued under rule 21.

PART II.

Acts under
Part I.

1. Any act specified in Part I when done by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent.

Personation.

2. The application by a person at an election for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or for a voting paper in his own name after he has already voted at such election.

Bribery.

3. The receipt of, or agreement to receive, any gratification, whether as a motive or a reward—

(a) by a person to stand or not to stand as, or to withdraw from being, a candidate, or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting or for inducing or attempting to induce any elector to vote or refrain from voting or any candidate to withdraw his candidature.

Payment for
conveyance.

4. Any payment or promise of payment to any person whomsoever on account of the conveyance of any elector to or from any place for the purpose of recording his vote.

Hiring and
use of public
conveyances.

5. The hiring, employment, borrowing or using for the purposes of the election of any boat, vehicle or animal usually kept for letting on hire or for the conveyance of passengers by hire:

Provided that any elector may hire any boat, vehicle or animal, or use any boat, vehicle or animal which is his own property, to convey himself to or from the place where the vote is recorded.

Incurring
expense
without
authority.

6. The incurring or authorisation of expenses by any person other than a candidate or his election agent on account of holding any public meeting or upon any advertisement, circular or publica-

tion or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, unless he is authorised in writing so to do by the candidate.

7. The hiring, using or letting, as a committee-room or for the purpose of any meeting to which electors are admitted, of any building, room or other place where intoxicating liquor is sold to the public. Hiring of liquor shops.

8. The issuing of any circular, placard or poster having reference to the election which does not bear on its face the name and address of the printer and publisher thereof. Issue of circulars, etc., without printer's and publisher's name printed thereon.

C. W. GWYNNE,

Offg. Joint Secretary to the Government of India.

HOME DEPARTMENT.

NOTIFICATION.

PUBLIC.

Delhi, the 3rd January 1924.

No. F.-248-III.—In exercise of the powers conferred by sections 45A and 129A of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules:—

1. (1) These rules may be called the Coorg Devolution Rules. Short title and commencement.

(2) They shall come into force on a date to be appointed by the Governor General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different provisions of these rules.

2. (1) For the purpose of distinguishing the functions of the local Government and the local legislature of the province of Coorg from the functions of the Governor General in Council and the Indian Legislature, subjects shall in that province be classified in relation to the functions of Government as central and provincial subjects in accordance with the lists set out in the Schedule to these rules. Classification of subjects.

Provided that every subject so classified as provincial shall be subject to legislation by the Indian legislature.

(2) Any matter which is included in the list of provincial subjects set out in Part II of the Schedule shall, to the extent of such inclusion, be excluded from any central subject of which, but for such inclusion, it would form part.

3. Where any doubt arises as to whether a particular matter does or does not relate to a provincial subject, the Governor General in Council shall decide whether the matter does or does not so relate, and his decision shall be final. Settlement of doubts.

Employment
of Indian
Medical
Service.

4. The local Government shall employ such number of Indian Medical Service officers in such appointments and on such terms and conditions as may be prescribed by the Secretary of State in Council.

Allocation of
revenue.

5. The following sources of revenue shall be allocated to the local Government as sources of provincial revenue, namely:—

- (a) receipts accruing in respect of provincial subjects;
- (b) payments made to the local Government by the Governor General in Council or by other local Governments, either for services rendered or otherwise;
- (c) the proceeds of any taxes which may be lawfully imposed for provincial purposes; and
- (d) any other sources which the Governor General in Council may by order declare to be sources of provincial revenue.

Payment of
Government
revenues into
the public
account.

6. All moneys derived from sources of provincial revenue shall be paid into the public account, of which the Governor General in Council is custodian, and credited to the Government of the province. The Governor General in Council shall have power, with the previous sanction of the Secretary of State in Council, to prescribe by general or special order the procedure to be followed in the payment of moneys into, and in the withdrawal, transfer and disbursement of moneys from, the public account, and for the custody of moneys standing in the account.

7. * * * * *

Withdrawal
of balances.

8. At any time when he considers this course to be essential in the financial interests of India as a whole, the Governor General in Council shall have power to require the local Government so to regulate its programme of expenditure as not to reduce the balance at its credit in the public account on a specified date or dates below a stated figure, and shall have power to take the necessary steps by the restriction of issues of moneys to secure this end. Subject to this power, the local Government shall be at liberty to draw on its balances, provided that notice of the amount which it proposes to draw during the ensuing financial year is given to the Governor General in Council before such date in each year as the Governor General in Council may by order fix.

Interest on
provincial
balances.

9. Whenever the Governor General in Council has, on receipt of due notice of the intention of the local Government to draw on its balances, required it to reduce the extent of the proposed draft, he shall, at the end of the financial year in which the local Government is debarred from drawing, credit the local Government with interest on the amount which it was not permitted to draw. Such interest shall be a charge on the revenues of India and shall be calculated at the average rate at which the Governor General in Council has borrowed money in the open market during the year by the issue of treasury bills.

Advances by
the Govern-

10. The Governor General in Council may at any time make to the local Government an advance from the revenues or moneys

accruing to the Governor General in Council on such terms as to interest and repayment as he may think fit. ment of India.

11. The payment of interest on advances made under rule 10 and the repayment of the principle of such advances shall be a charge on the annual allocated revenues of the local Government and shall have priority over all other charges. Priority of interest charges.

12. The Governor General in Council may employ the agency of the local Government in the administration of central subjects in so far as such agency may be found convenient. Agency employment of local Government.

13. The cost of an establishment employed by the local Government exclusively on the administration of central subject shall be a charge against all-India revenues. Cost of agency establishments.

14. If a joint establishment is employed upon the administration of central and provincial subjects, the cost of such establishment may be distributed in such manner as the Governor General in Council and the local Government may agree, or, in the case of disagreement, in such manner as may be determined by the Secretary of State in Council. Distribution of cost of joint establishment.

SCHEDULE.

(See Rule 2.)

Part I.—Central Subjects.

1. (a) Defence of India, and all matters connected with His Majesty's Naval, Military and Air Forces in India, or with His Majesty's Indian Marine Service or with any other force raised in India, other than military and armed police wholly maintained by the local Government.

(b) Naval and military works and cantonments.

2. External relations, including naturalisation and aliens, and pilgrimages beyond India.

3. Relations with States in India.

4. Political charges.

5. Communications to the extent described under the following heads, namely:—

(a) railways and extra-municipal tramways;

(b) aircraft and all matters connected therewith; and

(c) inland waterways, to an extent to be declared by rule made by the Governor General in Council or by or under legislation by the Indian legislature.

6. Shipping and navigation on inland waterways in so far as declared to be a central subject in accordance with entry 5 (c).

7. Posts, telegraphs and telephones, including wireless installations.

8. Customs, cotton excise duties, income-tax, salt, and other sources of all-India revenues.

9. Currency and coinage.

10. Public debt of India.

11. Savings Banks.

12. The Indian Audit Department and excluded Audit Departments, as defined in rules framed under section 96-D (1) of the Act.

13. Civil law, including laws regarding status, property, civil rights and liabilities, and civil procedure.

14. Commerce, including banking and insurance.

15. Trading companies and other associations.

16. Control of production, supply and distribution of any articles in respect of which control by a central authority is declared by rule made by the Governor General in Council or by or under legislation by the Indian legislature to be essential in the public interest.

17. Development of industries, in cases where such development by a central authority is declared by order of the Governor General in Council, made after consultation with the local Government, expedient in the public interest.

18. Control of cultivation and manufacture of opium, and sale of opium for export.

19. Stores and stationery, both imported and indigenous, required for Imperial Departments.

20. Control of petroleum and explosives.

21. Geological Survey.

22. Control of mineral development, in so far as such control is reserved to the Governor General in Council under rules made or sanctioned by the Secretary of State, and regulation of mines.

23. Botanical Survey.

24. Inventions and designs.

25. Copyright.

26. Emigration from, and immigration into, British India, and inter-provincial migration.

27. Criminal law, including criminal procedure.

28. Central police organisation.

29. Control of arms and ammunition.

30. Central agencies and institutions for research (including observatories), and for professional or technical training or promotion of special studies.

31. Ecclesiastical administration, including European cemeteries.

32. Survey of India.

33. Archæology.
34. Zoological Survey.
35. Meteorology.
36. Census and statistics.
37. All-India services.
38. Legislation in regard to any provincial subject, and any powers relating to such subject reserved by legislation to the Governor General in Council.
39. Territorial changes, other than intra-provincial, and declaration of laws in connection therewith.
40. Regulation of ceremonial titles, orders, precedence and civil uniform.
41. Immovable property acquired by, and maintained at the cost of, the Governor General in Council.
42. The Public Service Commission.
43. All matters expressly excepted by the provisions of Part II of this Schedule from inclusion among provincial subjects.
44. All other matters not included among provincial subjects under Part II of this Schedule.

Part II.—Provincial Subjects.

1. Local self-government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in a province for the purpose of local self-government, exclusive of matters arising under the Cantonments Act, 1910.
2. Medical administration, including hospitals, dispensaries, and asylums and provision for medical education.
3. Public health and sanitation and vital statistics.
4. Pilgrimages within British India.
5. Education.
6. Public works, other than those falling under entry 14 of this Part and included under the following heads, namely:—
 - (a) construction and maintenance of provincial buildings used or intended for any purpose in connection with the administration of the province; and care of historical monuments, with the exception of ancient monuments as defined in section 2 (1) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under section 3 (1) of that Act; provided that the Governor General in Council may, by notification in the "Gazette of India," remove any such monument from the operation of this exception;

- (b) roads, bridges, ferries, tunnels, ropeways, and causeways and other means of communication, subject to such conditions as regards control over construction and maintenance of means of communication declared by the Governor General in Council to be of military importance, and as regards incidence of special expenditure connected therewith, as the Governor General in Council may prescribe; and
 - (c) tramways within municipal areas.
7. Water supplies, irrigation and canals, drainage and embankments, water storage and water power.
 8. Land revenue administration as described, under the following heads, namely:—
 - (a) assessment and collection of land revenue;
 - (b) maintenance of land records, survey for revenue purposes, records-of-rights;
 - (c) laws regarding land tenures, relations of landlords and tenants, collection of rents;
 - (d) Courts of Wards, incumbered and attached estates;
 - (e) colonisation and disposal of Crown lands and alienation of land revenue; and
 - (f) management of Government estates.
 9. Famine relief.
 10. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests, and prevention of plant diseases.
 11. Civil Veterinary Department, including provision for veterinary training improvement of stock and prevention of animal diseases.
 12. Fisheries.
 13. Co-operative Societies.
 14. Forests, including preservation of game therein, and all buildings and works executed by the Forest Department.
 15. Land acquisition.
 16. Excise, that is to say, the control of production, manufacture, possession, transport, purchase, and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and licence fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.
 17. Administration of justice, including constitution, powers, maintenance and organisation of courts of civil and criminal jurisdiction within the province.
 18. Judicial and Non-judicial stamps.
 19. Registration of deeds and documents.

20. Registration of births, deaths and marriages.

21. Religious and charitable endowments.

22. Development of mineral resources which are Government property, subject to rules made or sanctioned by the Secretary of State, but not including the regulation of mines.

23. Development of industries, including industrial research and technical education.

24. Industrial matters included under the following heads, namely:—

(a) factories;

(b) settlement of labour disputes;

(c) electricity;

(d) boilers;

(e) gas;

(f) smoke nuisances; and

(g) welfare of labour, including provident funds, industrial insurance (general health and accident) and housing.

25. Stores and stationery, subject, in the case of imported stores and stationery, to such rules as may be prescribed by the Secretary of State in Council.

26. Adulteration of foodstuffs and other articles.

27. Weights and measures.

28. Inland waterways, including shipping and navigation thereon so far as not declared by the Governor General in Council to be central subjects.

29. Police, including railway police; subject in the case of railway police to such conditions as regards limits of jurisdiction and railway contributions to cost of maintenance as the Governor General in Council may determine.

30. The following miscellaneous matters, namely:—

(a) regulation of betting and gambling;

(b) prevention of cruelty to animals;

(c) protection of wild birds and animals;

(d) control of poisons;

(e) control of vehicles; and

(f) control of dramatic performances and cinematographs.

31. Control of newspapers, books and printing presses.

32. Coroners.

33. Criminal tribes.

34. European vagrancy.

35. Prisons, prisoners (except State prisoners) and reformatories.

36. Pounds and prevention of cattle trespass.
37. Treasure trove.
38. Libraries and museums and zoological gardens.
39. Provincial Government presses.
40. Elections for the provincial legislature; subject to rules framed under section 76 of the Government of India Act.
41. Regulation of medical and other professional qualifications and standards.
42. Local Fund Audit, that is to say, the audit by Government agency of income and expenditure controlled by local bodies.
43. Control of public services within the province other than all-India services.
44. Taxes imposed by or under Provincial legislation.
45. Imposition by legislation of punishments by fine, penalty, or imprisonment for enforcing any law of the province relating to any provincial subject.
46. Any matter which, though falling within a central subject, is declared by the Governor General in Council to be of a merely local or private nature within the province.
47. * * * * *

H. TONKINSON,
Joint Secretary to the Government of India.

HOME DEPARTMENT.

NOTIFICATION.

PUBLIC.

Delhi, the 28th January 1924.

No. F.-248—22.—In exercise of the powers conferred by sections 81A and 129A of the Government of India Act, the Governor General in Council with the sanction of the Secretary of State in Council is pleased to make the following rules:—

1. These rules may be called the Coorg Reservation of Bills Rules.

2. All Bills which have been passed by the Legislative Council of the Chief Commissioner of Coorg shall be reserved by the Chief Commissioner for the consideration of the Governor General.

H. TONKINSON,
Joint Secretary to the Government of India.

Short
Title.

All Bills to
be reserved.

THE CHIEF COMMISSIONER OF COORG.

NOTIFICATION.

Bangalore, the 16th January 1924.

No. 10.—In pursuance of sub-section (4) of section 80 of the Government of India Act, and with the previous sanction of the Governor-General in Council, the Chief Commissioner of Coorg is pleased to make the following rules for the conduct of legislative business in the Coorg Legislative Council.

I.—PRELIMINARY.

Definitions.

1. In these rules—

- “ Act ” means the Government of India Act;
- “ Council ” means the legislative council of the Chief Commissioner of Coorg assembled for the conduct of legislative business;
- “ Gazette ” means the Coorg District Gazette;
- “ Member ” means a member of the Council;
- “ President ” means the Chief Commissioner, or in his absence the Vice-President or other member required under sub-section (2) of section 78 of the Act to preside at a meeting of the Council during the conduct of legislative business; and
- “ Secretary ” means the officer appointed by the Chief Commissioner to perform the duties of Secretary to the Council, and includes every person for the time being exercising the functions of the Secretary.

II.—MEETINGS OF THE COUNCIL.

2. When it appears to the Chief Commissioner that a sitting of the Council is expedient he shall summon the Members by a notification published in the Gazette. Summoning the Council.

3. The Council shall ordinarily meet at 11 A.M.

Hours of sitting.

4. Members shall sit in such order as may be determined by the President from time to time. Members' places.

5. (1) When the business of a meeting is concluded, the President shall adjourn the meeting, and he may at any time, without debate or vote, adjourn any meeting or any business to any future day or to any hour of the same day. Adjournments.

(2) When any meeting is adjourned to a future day the Secretary shall send notice of the adjournment to each member who was not present at such meeting.

(3) When any meeting has been adjourned to a future day, the President may thereafter change such day to any other day, and

the Secretary shall send written notice of the change to each member.

Order of
business.

6. The President shall regulate the order of business at meetings of the Council, and may at any time refer any particular matter coming properly under the consideration of the Council for the consideration of the Council. No business not entered in the list prepared by the Secretary under Rule 47 shall be transacted at any meeting without the permission of the President, previously obtained and announced by him.

Preservation
of order.

7. (1) The President shall preserve order and all points of order shall be decided by him.

(2) No discussion on any point of order shall be allowed unless the President shall think fit to take the opinion of the Council thereon.

(3) Any member may, at any time, submit a point of order to the decision of the President.

(4) The President shall have all powers necessary for the purpose of enforcing his decisions.

Members to
speak stand-
ing from
their places.

8. (1) Every member shall speak from his place, shall rise when he speaks, and shall address the President.

(2) At any time if the President rises, any member speaking shall immediately resume his seat.

On what
business
members
may speak.

9. No member shall be heard except upon business then regularly before the Council, or, by permission of the President specially obtained, in explanation of what he had said in a previous debate.

Time limit
for speeches.
Members to
speak once
only, but
mover to
have right of
reply.

10. (1) After the mover has spoken, other members may speak to a motion in such order as the President may direct, and thereafter the mover may speak once by way of reply.

(2) No member other than the mover and the Member in charge shall speak more than once to any motion except, with the permission of the President, for the purpose of making an explanation.

(3) No speech, except with the permission of the President, shall exceed 15 minutes in duration:

Provided that the mover of a motion when moving the same, and the Member in charge, may speak for 30 minutes.

Power of
member to
speak on an
amendment.

11. A member who has spoken upon a motion may speak again upon any amendment thereof afterwards moved.

Power of
President to
close a dis-
cussion and
to speak
before put-
ting the
question.

12. When, in the opinion of the President, any motion and any amendment thereto have been sufficiently discussed, he may close the discussion by calling on the mover to reply and the Member in charge to submit any final observations which he may wish to make: Provided that the President may in all cases address the Council before putting the question to the vote.

Questions
to be asked

13. When for the purpose of explanation during discussion, or for any other sufficient reason, any member has occasion to ask a

question of another member relating to the business of the Council, through the President. through President.

14. Any member may, with the permission of the President, speak or read a speech in English at the request and on behalf of another member present at a meeting who is unable to express himself in English. Members who cannot speak English.

15. (1) Every question shall be resolved in the affirmative or in the negative according to the majority of votes. Voting.

(2) Votes may be taken by voices or by division, and shall be taken by division if any member so desires.

(3) The President shall determine the method of taking votes by division.

16. Any member may ask for any papers or returns connected with any Bill before the Council. The President shall determine, either at the time or at the meeting of the Council next following, whether the papers or returns asked for shall be given. Papers and returns.

17. Communications on matters connected with any Bill before the Council may be addressed to the Chief Commissioner, or to the Secretary, and in either case shall be sent to the Secretary. Communications as to pending Bills.

18. The Secretary shall cause such communications to be printed and shall send a copy to each member, and shall refer them to any Select Committee sitting on the Bill to which they relate. Circulation of communications.

III.—MOTIONS.

19. Any member who wishes to make an original motion, or to move an amendment of a Bill, shall either give notice of his intention at the next previous meeting, or send notice to the Secretary not less than five days before the day of the meeting at which he intends to introduce the motion. Notice of original motions and amendments.

20. (1) Notwithstanding anything contained in Rule 19, a non-official member who wishes to make a motion for leave to introduce a Bill shall send notice to the Secretary not less than two months before the day of the meeting at which he intends to make the motion and shall, together with the notice, submit a copy of the Bill and of the Statement of Objects and Reasons. Motions by non-official members for leave to introduce Bills.

(2) If the Bill is a Bill which under the Act requires sanction, the member shall annex to the notice a copy of such sanction, and the notice shall not be valid until this requirement is complied with.

(3) If any question arises whether a Bill is or is not a Bill which requires sanction under the Act, the question shall be referred to the authority which would have power to grant the sanction if it were necessary, and the decision of that authority on the question shall be final.

21. (1) Members who wish to move anything by way of amendment relating to business about to come before the Council may adopt either of the two courses prescribed in Rule 19. Notice of Amendments.

Procedure where no notice of amendment is given.

(2) If a member who has not adopted either of such courses desires to move anything by way of amendment without notice, the President may, in the exercise of his discretion, either permit the amendment to be put or withhold such permission or postpone the consideration thereof until the next meeting.

Bar of amendments having effect of a negative vote.

(3) Amendments having merely the effect of a negative vote shall not be moved.

Power of members to propose questions for determination.

22. (1) Subject to the provisions of the Act and to these rules, any member may, by motion, propose for the determination of the Council any original question, or any amendment of such question, relating to a Bill proposed for enactment or relating to the rules for the conduct of legislative business in the Council.

Procedure.

(2) Every motion, whether original or an amendment, shall be put into writing and delivered to the President, who, if he considers it to be in order, shall put the proposed question to the Council, after which it may be debated.

Withdrawal of motions.

23. (1) A member who has moved an original question or an amendment may withdraw the same, unless some member desires that it be put to the vote.

Procedure where motion debated and not withdrawn.

(2) If a question is debated and not withdrawn, the President shall again read it before taking the sense of the Council thereon.

Procedure of President when amendment moved.

24. (1) When an amendment upon any motion is moved, or when two or more such amendments are moved, the President, before taking the sense of the Council thereon, shall read the terms of the original motion and of the amendment or amendments proposed.

(2) It shall be in the discretion of the President to put first to the vote either the original motion or any of the amendments which may have been brought forward.

Power of President to divide motion.

25. If any motion, as made, involves many points, the President, at his discretion, may divide it, so that each point may be determined separately.

Withdrawal of Bill.

26. (1) At any time during the progress of a Bill the Member in charge may move that it be withdrawn.

(2) If such motion be carried, the Bill shall be withdrawn accordingly.

IV.—INTRODUCTION AND PUBLICATION OF BILLS.

Printing of Bills.

27. The Secretary shall then cause the Bill, together with the Statement of Objects and Reasons, to be printed and shall send a copy to each member:

Provided that a Bill, with all connected papers, may, by special order of the President, be printed in anticipation of the carrying of a motion for leave to introduce the same.

28. (1) The Council may, at any time after leave to introduce a Bill has been granted, direct that the Bill be published in such manner as the Council thinks fit. Publication of Bills.

(2) If any member is unacquainted with English, the Secretary shall cause the Bill and the Statement of Objects and Reasons to be translated for the use of such member into such language as the President may direct.

29. When a Bill is introduced, or on some subsequent occasion, the Member in charge of it shall make one or more of the following motions:— Introduction of Bills.

- (a) that the Bill be referred to a Select Committee, or
- (b) that it be taken into consideration by the Council either at once or at some future day, to be then mentioned, or
- (c) that it be circulated for the purpose of eliciting opinion thereon.

30. (1) No motion referred to in Rule 29 shall be made until after a copy of the Bill and a copy of the Statement of Objects and Reasons have been furnished to each member. Circulation of Bill and Statement before making any such motion.

(2) Any member may object to such motion being made unless such copies have been furnished to him at least seven days previously; and such objection shall prevail unless the President, in exercise of his discretion, allows the motion to be made.

31. On the day on which any motion referred to in Rule 29 is made, or on any subsequent day to which the discussion is postponed, the principle of the Bill and its general provisions may be discussed. Discussion of principle and general provisions of Bill.

32. When any motion mentioned in Rule 29 has been carried, the Bill, together with a Statement of Objects and Reasons, shall, unless it has been previously published by order of the Chief Commissioner under Rule 33 and has not been materially altered since the date of such publication, be published in the Gazette in English, and also, unless the Council otherwise directs, in the Vernacular. Gazetting.

33. A Bill at any time be sent to the Secretary to be printed and circulated. The Chief Commissioner, if he sees fit, may order that such Bill be published in the Gazette, together with the Statement of Objects and Reasons. Further publication by order.

V.—SELECT COMMITTEES.

34. The Legal Remembrancer, if he is a Member of the Council, shall be a member of every Select Committee. Composition of Committees.

35. (1) The members of every Select Committee shall be named by the Council when the Bill is referred or at some subsequent meeting. Nomination of members.

(2) The Member in charge of the Bill shall be Chairman of the Committee and, in the case of an equality of votes, shall have a second or casting vote. Chairman's casting vote.

Report of
the Select
Committee.

36. (1) The Select Committee shall, unless ordered to report sooner, make a report upon the Bill referred as soon as possible after the close of two months from the date of its publication in the Gazette. Such report may be either preliminary or final.

(2) The Select Committee shall in their report state—

(1) whether the publication ordered by these rules or by the Council, has taken place, and the date on which it has taken place; and

(2) whether the Bill has been so altered as to require republication.

Circulation
of Select
Committee's
report.

37. The Secretary shall cause every report of a Select Committee to be printed and circulated to each member, and shall also, if the President so directs, cause the report with the amended Bill to be published in the Gazette.

Presentation
of the report
of the Select
Committee.

38. The report of the Select Committee on a Bill shall be presented to the Council by the Member in charge of the Bill, and shall be taken into consideration by the Council as soon as conveniently may be, but any member may object to its being so taken into consideration if he has not been furnished, one week beforehand, with a copy of the report, and such objection shall prevail unless the President, in exercise of his power to suspend any of these rules, allows the report to be taken into consideration.

Form in
which clauses
of Bill to be
considered.

39. (1) When the report is taken into consideration, it may be moved that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee; and, if the motion is affirmed, the clauses shall be so considered.

(2) If no such motion be made and affirmed, the clauses shall be considered for settlement as they stood when the Bill was introduced.

VI.—CONSIDERATION AND AMENDMENT OF BILLS.

Proposal of
amendment.

40. When a Bill is taken into consideration by the Council, any member, subject to the provisions of rules 21 to 25, may propose an amendment of such Bill:

Provided that the provisions of sub-rule (2) and sub-rule (3) of Rule 20 shall apply in the case of such amendment in like manner as they apply in the case of a Bill.

Order of
amendments.

41. Amendments shall ordinarily be considered in the order of the clauses to which they respectively relate.

Submission
of Bill
clause by
clause.

42. (1) Notwithstanding anything in the preceding rules, it shall be in the discretion of the President, when a motion that a Bill be taken into consideration has been carried, to submit the Bill, or any part of the Bill, to the Council, clause by clause.

(2) When the procedure mentioned in sub-rule (1) is adopted, the President shall call each clause separately and, when the amendment relating to it has been dealt with, shall put the question "that this

clause, or (as the case may be) this clause as amended, stand part of the Bill."

43. (1) Any member may move that a Bill which has been amended by the Council or by a Select Committee be republished or be recommitted to the Select Committee either—

Republica-
tion or re-
commitment
of amended
Bill.

(a) without limitation, or

(b) with respect to particular clauses or amendments only, or

(c) with instructions to the Select Committee to make some particular or additional provision in the Bill.

(2) If such motion is carried, the President shall order that the Bill be republished or recommitted as the case may be.

44. (1) If no amendment be made when a Bill is taken into consideration by the Council the Bill may at once be passed.

Passing of
Bills.

(2) If any amendment be made, any member may object to the passing of the Bill at the same meeting; and such objection shall prevail unless the President, in exercise of his discretion, allows the Bill to pass.

(3) Where the objection prevails, the Bill shall be brought forward again at a future meeting and may then be passed with or without further amendment.

VII.—PASSING OF BILLS AND PUBLICATION OF ACT.

45. When a Bill is passed by the Council, the Secretary shall revise and complete the marginal notes thereof, and shall submit it to the Chief Commissioner for action in accordance with the provisions of section 81A of the Act.

Revision of
marginal
notes and
submission
of Bill to
Chief Com-
missioner.

46. When the Governor-General has signified his assent, the Bill shall be published as soon as possible in the Gazette under the signature of the Secretary as an Act of the Legislative Council of the Chief Commissioner, which has received the assent of the Governor-General and has the force of law.

Publication
of Act.

VIII.—DUTIES OF SECRETARY.

47. Ordinarily there shall be prepared by the Secretary a list of the matters to be taken into consideration at each meeting of the Council, and a copy thereof shall be despatched by him to each member three days before the day of meeting to such address as may be notified by the member to the Secretary.

List of
business.

48. (1) The Secretary shall cause to be prepared a full report of the proceedings of the Council at each of its meeting and shall as soon as practicable publish it in such form and manner as the President may direct.

Proceedings
of the
Council.

(2) One copy of the report shall be submitted to the President for his confirmation and signature, and when signed by him shall constitute the authentic record of the proceedings of the Council.

(3) The Secretary shall send one copy of such report to each member of the Council, to the Secretary to the Government of India in the Legislative Department and to the Permanent Under-Secretary of State for India.

Other duties.

49. In addition to the other duties specially provided for by these rules, it shall be the duty of the Secretary—

- (1) to take charge of all records of the Council;
- (2) to keep the books of the Council;
- (3) to keep a list of the business for the time being before the Council;
- (4) to superintend the printing of all papers ordered to be printed;
- (5) to make out from time to time a list of all Select Committees' sittings;
- (6) to assist the Council and all Committees in such manner as they may order;
- (7) to write all letters ordered by the Council, or by any Committee thereof, to be written.

IX.—MISCELLANEOUS.

Admission of strangers.

50. (1) Strangers shall not be admitted into the Council Chamber during the sittings of the Council save on the production of orders of admission.

(2) Application for orders of admission shall be made to the Secretary.

Withdrawal of strangers.

51. The President, whether on the application of any member or otherwise, may direct at any time during a sitting of the Council that strangers withdraw.

Sale of papers.

52. Any paper relating to any measure before the Council may be published by order of the President. Copies of papers so published shall be sold at such rates as may be fixed by the Secretary.

Dropped Bills.

53. Any Bill respecting which no motion has been made in the Council for two years may, by order of the President, be removed from the list of business.

Suspension of rules.

54. The President, for sufficient reason, may suspend any of the foregoing rules.

Finality of decisions.

55. The decision of the President on any question that may arise as to the intention, construction or application of these rules shall be final.

A. N. L. CATER,
Secretary to the Chief Commissioner.

THE CHIEF COMMISSIONER OF COORG.

NOTIFICATION.

Bangalore, the 16th January 1924.

No. 11.—In exercise of the powers conferred on him by sub-section (3) of section 80 of the Government of India Act, and with the previous sanction of the Governor-General in Council, the Chief Commissioner of Coorg is pleased to make the following rules for the discussion, at a meeting of the Coorg Legislative Council, of the annual financial statement of the local Government and for the appointment of a member of the council to preside at such discussion in the place of the Chief Commissioner and of the Vice-President.

1. In these rules—

Definitions.

- (1) " Budget " means the Draft Financial Statement as revised by the local Government after the proposals of the Finance Committee have been considered ;
- (2) " Draft Financial Statement " means the preliminary financial proposals of the local Government for the financial year next following ;
- (3) " Finance Committee " means the Committee of the Council appointed under Rules 2 and 3 to consider and revise the Draft Financial Statement ;
- (4) " Finance Member " means the Commissioner of Coorg ;
- (5) " Member in charge " with regard to any subject under discussion means the Commissioner of Coorg or the Member of the Council appointed by the Chief Commissioner to perform the functions of the Member in charge under these rules in respect of the business of the Department of the local Government to which the subject under discussion belongs ;
- (6) " President " means—
 - (a) the Chief Commissioner, or
 - (b) the Vice-President appointed by the Chief Commissioner under sub-section (1) of section 78 of the Government of India Act, or
 - (c) the Member appointed to preside under rule 37 ;
- (7) " Secretary " means the Secretary to the Council and includes any person for the time being exercising the functions of the Secretary.

The Draft Financial Statement.

2. On a day not later than the 5th day of January in each year, a Finance Committee shall be constituted for the purpose of dis-

cussing the Draft Financial Statement and making proposals with reference thereto for the consideration of the local Government.

3. (1) The Finance Committee shall consist of a Chairman and of such number of other members, not exceeding five, as the Chief Commissioner may direct, of whom not more than half shall be nominated by the Chief Commissioner.

(2) The remaining members of the Committee shall be elected by the non-official Members of the Council by votes given under such procedure as the Chief Commissioner may prescribe by notification in the *Coorg District Gazette*.

4. The Finance Member shall be the Chairman of the Committee, and, in the case of an equality of votes on any matter, shall have a second or casting vote.

5. (1) On a day not later than the 18th day of January in each year, the local Government shall refer the Draft Financial Statement to the Finance Committee.

(2) The draft shall comprise tabular statements showing—

- (a) the opening balance of the Provincial account;
- (b) the estimated Provincial revenue under the various major heads of account;
- (c) the estimated Provincial expenditure, under specific major heads, on existing establishments and schemes and on new schemes the cost of which is not considerable or which the local Government considers to be of an absolutely obligatory character;
- (d) the amounts available for maximum recurring expenditure and for total expenditure upon other new schemes; the latter being provisionally included under a head "Unallotted Expenditure"; and
- (e) the estimated closing balance which shall not be less than Rs. 50,000.

(3) There shall be appended to the Draft Financial Statement a memorandum indicating as fully as possible the manner in which the local Government provisionally proposes to allot the sum available for total expenditure on new schemes referred to in clause (d) of sub-rule (2), and also indicating, if thought desirable, alternative methods of distributing this expenditure. In respect of each suggestion thus made, the maximum recurring expenditure, and the total expenditure, (a) recurring, and (b) non-recurring, which it is proposed to incur in the next financial year, shall be separately stated.

6. (1) The Finance Committee shall consider how the provision made under the head "Unallotted Expenditure" referred to in clause (d) of sub-rule (2) of Rule 5 shall be distributed among the specific major heads, and to what purposes the sums thus allotted should be applied:

Provided that—

- (i) the total provision for recurring and non-recurring expenditure on the new schemes shall not exceed the amount entered in the Draft Financial Statement as available for these purposes; and
- (ii) the limit of recurring expenditure shall be determined with reference to the maximum amount which a scheme will eventually involve, any difference between this figure and the recurring expenditure required to be provided in the Draft Financial Statement under discussion being made up by addition to non-recurring expenditure.

(2) It shall also consider the estimates of revenue and expenditure referred to in clauses (b) and (c) of sub-rule (2) of rule 5 and recommend such amendments in them as seem to it to be advisable:

Provided that any recommendation likely to reduce the estimated closing balance referred in clause (c) of sub-rule (2) of Rule 5 shall be accompanied by proposals for a counterbalancing increase in revenue or reduction in expenditure referred to in clause (c) or (d) of that sub-rule. Such proposals should indicate the precise item or items in the draft financial statement which should be increased or reduced.

7. (1) The proceedings of the Committee shall be private and informal.

(2) They shall begin not later than the 20th day of January and be completed not later than the 27th day of the same month.

(3) Free discussion shall be allowed but the Chairman may at his discretion close discussion upon any particular item when he thinks that it cannot be continued with advantage.

(4) Where the question of making any particular provision in the estimates coming within the scope of the Committee's functions is in dispute, the Member in charge shall be heard in its support, and the Committee shall then proceed to vote, the decision being by majority of votes.

8. The Finance Committee shall submit to the local Government not later than the 28th day of January a report indicating the changes which it recommends in the Draft Financial Statement.

9. After considering the proposals of the Committee, the local Government shall embody its own conclusions in the Draft Financial Statement.

The Budget.

10. (1) The budget shall comprise a memorandum by the Finance Member explaining the general financial situation of the province in the current and ensuing years, together with memoranda explaining the estimates of revenue and expenditure under the various major heads, or groups of major heads.

(2) Copies of the Budget shall be supplied to Members of Council not later than the 5th day of March.

11. (1) The general discussion of the Budget in Council shall take place on such date subsequent to the date on which copies have been supplied under sub-rule (2) of Rule 10 as may be appointed by the Chief Commissioner in this behalf.

(2) At such discussion any member shall be at liberty to offer any observations he may wish to make on the Budget, but no member shall be permitted to move any resolution in regard thereto nor shall any question be submitted to the vote of the Council.

(3) The President may, if he thinks fit, prescribe a time-limit for speeches.

(4) The discussion shall be limited to those branches of revenue and expenditure which relate to provincial subjects.

(5) The Finance Member shall have a right of reply at the end of the general discussion.

12. (1) On the day following that on which the general discussion has been held and for such time as the Chief Commissioner may, subject to the provisions of Rule 30, allot for this purpose, the heads or groups of heads in the Budget shall be open to discussion and shall be considered separately according to such grouping as the Member in charge may determine.

(2) The consideration of such heads or group of heads shall be introduced by the Member in charge with such explanations, supplementing the information contained in the Budget, as may appear to him to be necessary.

(3) Any member shall then be at liberty to move any resolution, relating to any question covered by any such head or group of heads, which may be entered in his name in the List of Business, and the Council shall thereupon proceed to discuss every such resolution in the manner hereinafter prescribed.

13. (1) No discussion shall be permitted in regard to any of the following subjects, namely:—

(a) any contribution payable by the local Government to the Governor-General in Council;

(b) interest and sinking fund charges on loans;

(c) expenditure of which the amount is prescribed by or under any law;

(d) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council;

(e) salaries of the Chief Commissioner and the Judicial Commissioner;

(f) any matter affecting the relations of His Majesty's Government or of the Government of India with any Foreign State.

(g) any matter affecting the relations of the authorities mentioned in clause (f) or of the Chief Commissioner with any Prince or Chief under the suzerainty of His Majesty or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief; and

(h) any matter under adjudication by a court of law having jurisdiction in any part of His Majesty's dominions.

(2) If any question arises regarding the application of the provisions of sub-rule (1), the President shall decide the same and his decision shall be final.

14. No resolution shall be moved which does not comply with the following conditions, namely:—

(a) it shall be in the form of a specific recommendation addressed to the Chief Commissioner;

(b) it shall be clearly and precisely expressed and shall raise a definite issue;

(c) it shall not contain arguments, inferences, ironical expressions, or defamatory statements, nor shall it refer to the conduct or character of any person except in his official or public capacity;

(d) it shall not challenge the accuracy of the figures of the Budget;

(e) it shall be directly relevant to some entry in the Budget;

(f) it shall not criticise any decision of the Government of India in respect of provincial finance; and

(g) if it would in itself have the effect of causing the total expenditure of the province to exceed the amount entered in the Budget, it must propose some counterbalancing reduction in the estimates so as to avoid such excess.

15. A member, who wishes to move a resolution, shall give previous notice in writing to the Secretary, and he shall at the same time submit a copy of the resolution which he wishes to move:

Provided that the President may fix a date after which no such notice shall be received.

16. The President shall decide on the admissibility of a resolution and his decision shall be final. He may disallow any resolution or part of a resolution without giving any reason therefor other than that, in his opinion, it cannot be moved consistently with the public interests, or that it should be moved in the Indian Legislature.

17. (1) No discussion in Council shall be permitted in respect of any order of the President under Rule 16.

(2) A resolution that has been disallowed shall not be entered in the proceedings of the Council.

18. Resolutions admitted by the President shall be entered in the List of Business in such order as he may direct.

Discussion of Resolutions.

19. (1) After the mover of a resolution has spoken, other members may speak to the motion in such order as the President may direct, and thereafter the mover may speak once by way of reply.

(2) No member, other than the mover and the Member in charge shall speak more than once to any motion except, with the permission of the President, for the purpose of making an explanation.

20. No speech, except with the permission of the President, shall exceed fifteen minutes in duration:

Provided that the mover of a resolution, when moving the same, and the Member in charge, may speak for thirty minutes.

21. The discussion of a resolution shall be limited to the subject of the resolution, and shall not extend to any matter as to which a resolution may not be moved.

22. A member who has moved a resolution may withdraw the same unless some member desires that it be put to the vote.

23. (1) A member in whose name a resolution appears on the List of Business shall, when called on, either—

(a) withdraw the resolution, in which case he shall confine himself to a mere statement to that effect; or

(b) move the resolution.

(2) If the member when called on is absent, the resolution standing in his name shall be considered to have been withdrawn.

24. When, in the opinion of the President, a resolution has been sufficiently discussed, he may close the discussion by calling upon the mover to reply and the Member in charge to submit any final observations which he may wish to make:

Provided that the President may in all cases address the Council before putting the question to the vote.

25. If any resolution involves many points, the President at his discretion may divide it, so that each point may be determined separately.

26. (1) Every question shall be resolved in the affirmative or in the negative according to the majority of votes.

(2) Votes may be taken by voices or by division and shall be taken by division if any member so desires.

(2) The President shall determine the method of taking votes by division.

27. (1) The President may assign such time as with due regard to the public interests he may consider reasonable for the discussion of resolutions or of any particular resolution.

(2) Every resolution which has not been put to the vote within the time so assigned shall be deemed to have been withdrawn.

28. Every resolution, if carried, shall have effect only as a recommendation to the Chief Commissioner.

29. When a question has been discussed at a meeting of the Council, or when a resolution has been disallowed under Rule 16 or withdrawn under Rule 23, no resolution raising substantially the same question shall be moved within one year.

30. The discussion of the Budget shall be closed not later than the 16th day of March, or, if the discussion commences before the 12th day of March, then on the fourth day of the discussion.

31. (1) A printed or type-written copy of the Budget as finally passed by the local Government shall thereafter be communicated to each Member of Council together with a note describing the changes that have been made in the figures originally supplied to the Council and explaining why any resolutions, passed in Council, have not been accepted.

(2) A copy of the Budget as finally passed shall also be submitted to the Governor-General in Council for information.

General.

32. (1) Every member shall speak from his place, shall rise when he speaks and shall address the Chair.

(2) At any time, if the President rises, any member speaking shall immediately resume his seat.

33. (1) Any member may send his speech in print or type-written to the Secretary not less than two clear days before the day fixed for the discussion of a resolution, with as many copies as there are members, and the Secretary shall cause one of such copies to be supplied to every member.

(2) Any such speech may, at the discretion of the President, be taken as read.

34. (1) The President shall preserve order, and all points of order shall be decided by him and his decision thereon shall be final.

(2) No discussion on any point of order shall be allowed unless the President thinks fit to take the opinion of the Council thereon.

(3) Any member may at any time submit a point of order for the decision of the President.

(4) The President shall have all powers necessary for the purpose of enforcing his decision, and may direct any member whose conduct is in his opinion grossly disorderly to withdraw immediately from the Council, and any member so ordered to withdraw shall do so forthwith and absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second time in the same session, the President may direct the member to absent himself from the meetings of the Council for any period not longer than the remainder of the session and the member so directed shall absent himself accordingly.

35. The business of the Council shall be transacted in English, but any member who is not fluent in English may address the Council in any recognised vernacular of the province, provided that

the President may call on any member to speak in any language in which he is known to the proficient.

36. A member while speaking shall not—

- (i) refer to any matter on which a judicial decision is pending;
- (ii) make a personal charge against a member;
- (iii) use offensive expressions regarding the conduct or proceedings of the Indian Legislature or of any local legislature;
- (iv) reflect upon the conduct of His Majesty or of the Ruler of any Foreign State or of the Governor-General or of any Governor or other head of a local Administration or of any Court of Justice;
- (v) utter treasonable, seditious, or defamatory words; or
- (vi) use his right of speech for the purpose of obstructing the business of the Council.

37. The Chief Commissioner may appoint a member of the Council to preside in his place or in that of the Vice-President, on any occasion on which the Budget or any portion thereof is discussed in the Council.

38. The President, for sufficient reason, may suspend any of the foregoing rules.

39. In and for the year 1924 the Chief Commissioner may direct that any matter or thing which is required by these rules to be done, begun or completed not later than a specified date may, notwithstanding such requirement, be done, begun or completed on a date later than such specified date but not later than a date to be appointed by him in this behalf.

A. N. L. CATER,

Secretary to the Chief Commissioner.

THE CHIEF COMMISSIONER OF COORG.

NOTIFICATION.

Bangalore, the 16th January 1924.

No. 12.—In exercise of the powers conferred on him by sub-section (3) of section 80 of the Government of India Act, and with the previous sanction of the Governor-General in Council, the Chief Commissioner of Coorg is pleased to make the following rules for the discussion, at a meeting of the Coorg Legislative Council, of matters of general public interest and for the appointment of a member of the Council to preside at any such discussion in the place of the Chief Commissioner and of the Vice-President.

1. In these rules—

- (1) “ President ” means—
 - (a) the Chief Commissioner, or
 - (b) the Vice-President appointed by the Chief Commissioner under sub-section (1) of section 78 of the Government of India Act, or
 - (c) the member appointed to preside under rule 31;
- (2) “ Member in charge ” with regard to any subject under discussion means the Commissioner of Coorg, or the Member of the Council appointed by the Chief Commissioner to perform the functions of the Member in charge under these rules in respect of the business of the Department of the local Government to which the subject under discussion belongs;
- (3) “ Secretary ” means the officer appointed by the Chief Commissioner to perform the duties of the Secretary to the Council, and includes any person for the time being exercising the functions of the Secretary;
- (4) “ Session ” means the period from the time appointed by the Chief Commissioner for the commencement of a session under sub-section (1) of section 78 of the Government of India Act to the time when the Council is prorogued.

Matters open to discussion.

2. (1) Any matter of general public interest may be discussed in Council provided that no discussion shall be permitted in regard to—

- (a) any contribution payable by the local Government to the Governor-General in Council;
- (b) interest and sinking fund charges on loans;
- (c) expenditure of which the amount is prescribed by or under any law;
- (d) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council;
- (e) salaries of the Chief Commissioner and the Judicial Commissioner;
- (f) any matter affecting the relations of His Majesty's Government or of the Government of India with any Foreign State;
- (g) any matter affecting the relations of the authorities mentioned in clause (f) or of the Chief Commissioner with any Prince or Chief under the suzerainty of His Majesty or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief; and

(h) any matter under adjudication by a court of law having jurisdiction in any part of His Majesty's dominions.

(2) If any doubt arises as to whether any question is or is not within the restrictions imposed by the proviso to sub-rule (1) the Chief Commissioner shall decide the point and his decision shall be final.

Resolutions.

3. Subject to the restrictions contained in the proviso to sub-rule (1) of rule 2, any member may move a resolution relating to a matter of general public interest:

Provided that no resolution shall be moved which does not comply with the following conditions, namely:—

- (a) it shall be in the form of a specific recommendation addressed to the Chief Commissioner;
- (b) it shall be clearly and precisely expressed and shall raise a definite issue;
- (c) it shall not contain arguments, inferences, ironical expressions or defamatory statements, nor shall it refer to the conduct or character of persons except in their official or public capacity.

4. A member who wishes to move a resolution shall give notice in writing to the Secretary at least fifteen clear days before the meeting of the Council at which he desires to move the same, and shall, together with the notice submit a copy of the resolution which he wishes to move:

Provided that the President may allow a resolution to be moved with shorter notice than fifteen days, and may, in any case, require longer notice, or may extend the time for moving the resolution.

5. (1) The Secretary shall submit every resolution of which notice has been given to him in accordance with Rule 4 to the President, who may either admit it or, when any resolution is not framed in accordance with Rule 3, cause it to be returned to the member concerned for the purpose of amendment.

(2) If the member does not, within such time as the President may fix in this behalf, resubmit the resolution duly amended, the resolution shall be deemed to have been withdrawn.

6. The President shall decide on the admissibility of a resolution and his decision shall be final. He may disallow any resolution or part of a resolution without giving any reason therefor other than that in his opinion it cannot be moved consistently with public interests or that it should be moved in another Legislative Council or in the Indian Legislature.

7. (1) No discussion in Council shall be permitted in respect of any order of the President under Rule 5 or Rule 6.

(2) A resolution that has been disallowed shall not be entered in the proceedings of the Council.

8. Resolutions admitted by the President shall be entered in the List of Business for the day in the order in which they are received by the Secretary:

Provided that the President may give priority to any resolution which he may consider to be of urgent public interest, or postpone the moving of any resolution.

Discussion of Resolutions.

9. No resolution shall be taken into consideration by the Council unless it is seconded.

10. The discussion of resolutions shall take place after all the other business of the day has been concluded.

11. (1) After the mover of a resolution has spoken, other members may speak to the motion in such order as the President may direct, and thereafter the mover may speak once by way of reply.

(2) No member other than the mover and the member in charge shall speak more than once to any motion except, with the permission of the President, for the purpose of making an explanation.

12. No speech, except with the permission of the President, shall exceed fifteen minutes in duration:

Provided that the mover of a resolution, when moving the same, and the Member in charge, may speak for thirty minutes.

13. (1) Every member shall speak from his place, shall rise when he speaks, and shall address the Chair.

(2) At any time, if the President rises, any member speaking shall immediately resume his seat.

14. Any member may send his speech in print or type-written to the Secretary not less than two clear days before the day fixed for the discussion of a resolution, with as many copies as there are members, and the Secretary shall cause one of such copies to be supplied to each member.

15. The discussion of a resolution shall be limited to the subject of the resolution, and shall not extend to any matter as to which a resolution may not be moved.

16. When a resolution is under discussion, any member may, subject to all the conditions and restrictions relating to resolutions specified in Rules 2 and 3, move an amendment to such resolution:

Provided that an amendment may not be moved which has merely the effect of a negative vote:

Provided further that no amendment shall be taken into consideration by the Council unless it is seconded.

17. (1) If a copy of such amendment has not been sent to the Secretary at least three clear days before the day fixed for the discussion of the resolution, any member may object to the moving of the amendment; and such objection shall prevail unless the

President, in exercise of his power to suspend any of these rules, allows the amendment to be moved.

(2) The Secretary shall, if time permits, cause every amendment to be printed or type-written and shall send a copy for the information of each member.

18. A member who has moved a resolution or an amendment of a resolution may withdraw the same unless some member desires that it be put to the vote.

19. (1) A member in whose name a resolution appears on the List of Business shall, when called on, either—

(a) withdraw the resolution, in which case he shall confine himself to a mere statement to that effect; or

(b) move the resolution.

(2) If the member when called on is absent, the resolution standing in his name shall be considered to have been withdrawn.

20. A resolution of which notice has been given by a non-official member and which has been admitted, if it is not moved during the session, shall be deemed to have been withdrawn.

21. When, in the opinion of the President, a resolution and any amendment thereto have been sufficiently discussed, he may close the discussion by calling upon the mover to reply and the Member in charge to submit any final observations which he may wish to make:

Provided that the President may in all cases address the Council before putting the question to the vote.

22. (1) When an amendment to any resolution is moved, or when two or more such amendments are moved, the President shall, before taking the sense of the Council thereon, state or read to the Council the terms of the original motion and of the amendment or amendments proposed.

(2) It shall be in the discretion of the President to put first to the vote either the original motion or any of the amendments which may have been brought forward.

23. If any resolution involves many points, the President at his discretion may divide it, so that each point may be determined separately.

24. (1) Every question shall be resolved in the affirmative or negative according to the majority of votes.

(2) Votes may be taken by voices or by division, and shall be taken by division if any member so desires.

(3) The President shall determine the method of taking votes by division.

General.

25. The President may assign such time as, with due regard to the public interest, he may consider reasonable for the discussion of

resolutions or of any particular resolution; every resolution which shall not have been put to the vote within the time so assigned shall be considered to have been withdrawn.

26. Every resolution, if carried, shall have effect only as a recommendation to the Chief Commissioner.

27. When a question has been discussed at a meeting of the Council or when a resolution has been disallowed under Rule 6 or withdrawn under Rule 18, no resolution or amendment raising substantially the same question shall be moved within one year.

28. (1) The President shall preserve order and all points of order shall be decided by him and his decision thereon shall be final.

(2) No discussion on any point of order shall be allowed unless the President shall think fit to take the opinion of the Council thereon.

(3) Any member may at any time submit a point of order to the decision of the President.

(4) The President shall have all powers necessary for the purpose of enforcing his decision and may direct any member whose conduct is in his opinion grossly disorderly to withdraw immediately from the Council, and any member so ordered to withdraw shall do so forthwith and absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second time in the same session, the President may direct the member to absent himself from the meetings of the Council for any period not longer than the remainder of the session and the member so directed shall absent himself accordingly.

29. The business of the Council shall be transacted in English, but any member who is not fluent in English may address the Council in any recognised vernacular of the province, provided that the President may call on any member to speak in any language in which he is known to be proficient.

30. A member while speaking shall not—

- (i) refer to any matter on which a judicial decision is pending;
- (ii) make a personal charge against a member;
- (iii) use offensive expressions regarding the conduct or proceedings of the Indian Legislature or of any local legislature;
- (iv) reflect upon the conduct of His Majesty or of the Ruler of any Foreign State or of the Governor-General or of any Governor or other head of a local Administration or of any Court of Justice;
- (v) utter treasonable, seditious, or defamatory words; or
- (vi) use his right of speech for the purpose of obstructing the business of the Council.

31. The Chief Commissioner may appoint a Member of the Council to preside in his place, or in that of the Vice-President, on

any occasion on which a matter of general public interest is discussed in the Council.

32. The President, for sufficient reason, may suspend any of the foregoing rules.

A. N. L. CATER,

Secretary to the Chief Commissioner.

THE CHIEF COMMISSIONER OF COORG.

NOTIFICATION.

Bangalore, the 16th January 1924.

No. 13.—In exercise of the powers conferred on him by sub-section (3) of section 80 of the Government of India Act, and with the previous sanction of the Governor-General in Council, the Chief Commissioner of Coorg is pleased to make the following rules for the asking of questions, at a meeting of the Coorg Legislative Council, and for the appointment of a member of the Council to preside when questions are asked in the place of the Chief Commissioner and of the Vice-President.

1. In these rules—

(1) "President" means—

(a) the Chief Commissioner, or

(b) the Vice-President appointed by the Chief Commissioner under sub-section (1) of section 78 of the Government of India Act, or

(c) the member appointed to preside under rule 20;

(2) "Member in charge" with regard to any question means the Commissioner of Coorg or the member of the Council appointed by the Chief Commissioner to perform the functions of the Member in charge under these rules in respect of the business of the Department of the local Government to which the subject of such question belongs;

(3) "Secretary" means the officer appointed by the Chief Commissioner to perform the duties of the Secretary to the Council, and includes any person for the time being exercising the functions of the Secretary.

2. Any question may be asked by any member subject to the following conditions and restrictions.

3. (1) No question shall be permitted in regard to any of the following subjects, namely:—

(a) any matter affecting the relations of His Majesty's Government or of the Government of India with any Foreign State;

(b) any matter affecting the relations of the foregoing authorities or of the Chief Commissioner with any Prince or Chief under the suzerainty of His Majesty or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief; and

(c) any matter under adjudication by a court of law having jurisdiction in any part of His Majesty's dominions.

(2) If any doubt arises whether any question is or is not within the restrictions imposed by sub-rule (1), the Chief Commissioner shall decide the point and his decision shall be final.

4. No question shall be asked unless it complies with the following conditions, namely:—

- (1) it shall be so framed as to be merely a request for information;
- (2) it must not publish any name or statement not strictly necessary to make the question intelligible;
- (3) if a question contains a statement, the member asking it must make himself responsible for the accuracy of the statement;
- (4) it must not contain arguments, inferences, ironical expressions or defamatory statements;
- (5) it must not ask for an expression of opinion or the solution of an abstract legal question or of a hypothetical proposition;
- (6) it may not be asked as to the character or conduct of any person except in his official or public capacity;
- (7) it must not be of excessive length; and
- (8) it must not repeat a question already fully answered.

5. In matters which are or have been the subject of controversy between the Governor-General in Council and the local Government, no question shall be asked except as to matters of fact, and the answer shall be confined to a statement of fact.

6. A member who wishes to ask a question, shall give notice in writing to the Secretary at least ten clear days before the meeting of the Council at which he desires to put the question and shall, together with the notice, submit a copy of the question which he wishes to ask:

Provided that the President may allow a question to be put with shorter notice than ten days, and may in any case require longer notice or may extend the time for answering a question.

7. (1) The Secretary shall submit every question of which notice has been given to him in accordance with Rule 6 to the President, who may either allow it or, when any question is not framed in accordance with Rules 4 and 5, may cause it to be returned to the member concerned for the purpose of amendment.

(2) If the member does not, within such time as the President may fix in this behalf, resubmit the question duly amended, the question shall be deemed to have been withdrawn.

8. The President shall decide on the admissibility of questions under these rules and his decision shall be final. He may disallow any question, or any part of a question, without giving any reason therefor other than that in his opinion it cannot be answered consistently with the public interest or that it should be put in another Legislative Council or in the Indian Legislature.

9. No discussion in Council shall be permitted in respect of any order of the President under Rule 7 or Rule 8.

10. Questions which have been allowed shall be entered in the List of Business for the day, and shall be put in the order in which they stand in the list before any other business is entered upon at the meeting.

11. Questions shall be put and answers given in such manner as the President may in his discretion determine.

12. (1) A question addressed to a Member of the Government must relate to the public affairs with which he is officially connected or to a matter of administration for which he is responsible.

(2) A question addressed to a non-official member must relate to some Bill, resolution or other matter connected with the business of the Council for which such member is responsible.

13. Any member may put a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given:

Provided that the President shall disallow any supplementary question if, in his opinion, it infringes the rule as to the subject matter of questions.

14. The Member in charge may decline to answer a supplementary question without notice, in which case the supplementary question may be put only in the form of a fresh question at a subsequent meeting of the Council.

15. These rules, except Rules 6 and 7, apply also to supplementary questions:

Provided that the President may disallow any supplementary question without giving any reason therefor:

16. The President may rule that an answer to a question in the lists of business of the day shall be given on the ground of public interest even though the question may have been withdrawn.

17. No discussion shall be permitted in respect of any question or of any answer given to a question.

18. All questions asked and answers given shall be entered in the proceedings of the Council:

Provided that no question which has been disallowed by the President shall be so entered.

19. The President may assign such time as, with due regard to the public interest, he may consider reasonable for the putting and answering of questions.

20. The Chief Commissioner may appoint a Member of the Council to preside in his place, or in that of the Vice-President, on any occasion on which questions are asked in the Council.

A. N. L. CATER,

Secretary to the Chief Commissioner.

RULES RELATING TO THE POWERS OF THE CHIEF COMMISSIONER OF COORG AND OF THE GOVERNOR-GENERAL IN COUNCIL IN RESPECT OF EXPENDITURE FROM COORG PROVINCIAL REVENUES.

Definitions.

1. In these rules:—

- (a) *Appropriation* means the assignment, to meet specified expenditure of funds at the disposal of the assigning authority.
- (b) *Non-recurring expenditure* means expenditure sanctioned as a lump sum charge, whether the money be paid as a lump sum or by instalments.
- (c) *Primary unit of appropriation* means a lump sum of money allotted under any of the heads detailed in Rule 12 when the budget estimates for a year have been passed.
- (d) *Public Works* means civil works and irrigation, navigation, embankment and drainage works.
- (e) *Re-appropriation* means the transfer of funds from one unit of appropriation to another such unit.
- (f) *Recurring expenditure* means all expenditure which is not non-recurring.

Powers of sanctioning expenditure and of creating and abolishing posts.

2. The Chief Commissioner may sanction the creation or abolition of a permanent post, if the maximum pay of the post does not exceed Rs. 900.

3. The Chief Commissioner may increase or reduce the pay of a permanent post or of a Government servant in permanent employ, if the maximum pay of the post or of the Government servant does not exceed Rs. 900 after the increase or before the reduction, as the case may be.

4. The Chief Commissioner may sanction the creation of a temporary post on pay not exceeding Rs. 1,500—

- (a) for any specified period, if the pay of the post does not exceed Rs. 900, and
- (b) for not more than six months, if the pay exceeds Rs. 900.

5. The Chief Commissioner may reduce the pay of a temporary post, and may increase it within the limits imposed by Rule 4.

6. The Chief Commissioner may sanction the revision of the pay of an establishment, if—

(1) the provisions of Rule 3 are observed; and

(2) the additional expenditure involved does not exceed Rs. 10,000 a year.

7. The powers conferred by Rules 2—6 may not be exercised in respect of a post borne on the cadre of any of the All-India Services, or of a service ordinarily filled by officers holding the King's Commission or in respect of a member of any of those services.

8. The Chief Commissioner may sanction expenditure on contingencies, supplies and services and the purchase of articles for the public service, subject to the provisions of the Civil Account Code and to any order issued from time to time by the Governor-General in Council.

9. The Chief Commissioner may sanction expenditure on—

(a) grants-in-aid or contributions to educational, medical, and other institutions, and to local bodies and co-operative societies; and

(b) educational scholarships,

in accordance with such scales as may from time to time be prescribed or such orders as may from time to time be issued in this behalf by the Governor-General in Council.

10. In any individual case, the Chief Commissioner may sanction recurring expenditure not exceeding Rs. 1,000 a year or non-recurring expenditure not exceeding Rs. 5,000 on any object for which no scale or limit to his power of sanction is prescribed by any Act, or any rule, code or order of the Secretary of State in Council or the Governor-General in Council if the following conditions are fulfilled, namely:—

(1) the sanction does not involve an express contravention of an existing rule or order of the Secretary of State in Council or the Governor-General in Council, and

(2) the expenditure is within the powers of sanction of the Governor-General in Council.

11. Proposals which are not within the power of the Chief Commissioner to sanction under the above rules should be submitted for the consideration of the Governor-General in Council who may exercise in regard to them the same powers as are possessed by a Governor in Council other than of Burma in respect of expenditure on reserved provincial subjects. Any proposal not within the powers of sanction of the Governor-General in Council requires the sanction of the Secretary of State in Council. When the sanction of the Secretary of State in Council is required to any expenditure the application shall be addressed to the Governor-General in

Council, who shall, save as hereinafter provided, forward the same with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the Chief Commissioner, to the Secretary of State in Council.

If the application relates—

- (a) to the grant in an individual case of an increase in pay, or
- (b) to the creation or extension of a temporary post,

the Governor-General in Council may, at his discretion on behalf of the Secretary of State in Council, sanction the proposal, or may, and, if he dissents from the proposal, shall, forward the application with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the Chief Commissioner, for the orders of the Secretary of State in Council.

Appropriation.

12. The primary units of appropriation allotted in the Provincial budget estimate for expenditure other than on public works will ordinarily be allotments under some or all of the following heads:—

- (a) Pay of officers.
- (b) Pay of establishments.
- (c) Allowances, honoraria, etc.
- (d) Supplies and Services.
- (e) Contingencies.
- (f) Grants-in-aid, contributions and donations.
- (g) Works.
- (h) Assignments and compensations.
- (i) Establishment charges payable to other Governments, departments, etc.
- (j) Refunds of Revenue.
- (k) Reserve.
- (l) Suspense.

13. Out of the funds allotted in each primary unit of appropriation, the Chief Commissioner has full power to appropriate sums to meet expenditure falling under that unit, subject to the condition that funds may not be appropriated to meet any item of expenditure which has not been sanctioned by an authority empowered to sanction it.

Re-appropriation.

14. The Chief Commissioner may re-appropriate funds from any primary unit of appropriation to any other such unit, subject to the condition that funds may not be re-appropriated to meet any item of expenditure which has not been sanctioned by an authority empowered to sanction it.

Delegation of powers of sanction, appropriation and re-appropriation.

15. The Chief Commissioner may, with the previous consent of the Finance Department of the Government of India, delegate any part of the powers conferred upon him by Rules 2 to 5, 8, 9, 10, 13 and 14 to any authority subordinate to him.

Powers to remit disallowances by the Audit Office.

16. When an objection taken in the course of audit cannot be adjusted by the Accountant-General, Madras, in consultation with the authorities concerned, the Auditor-General may either instruct the Accountant-General, Madras, to withdraw the objection or require the Chief Commissioner, Coorg, to obtain the requisite sanction, or in default, to recover the amount under objection.

Provided that (i) if the objection to any expenditure is based solely on the ground that such expenditure contravenes one of the canons set out in Rule 10 of the Auditor-General's rules, the Auditor-General or the Accountant-General, Madras, shall withdraw such objection, at the request of the Chief Commissioner, Coorg, if the latter states that the breach of the canon and the action taken thereon by him will be reported as soon as possible to the Governor-General in Council, and (ii) if the Chief Commissioner, Coorg, orders in writing that the recovery of the amount under objection shall be foregone, the Auditor-General or the Accountant-General, Madras, shall withdraw such objection, but may require that the action taken shall be reported to the Governor-General in Council.

**INTRODUCTORY NOTE ON CLAIMS WHICH HAVE
BEEN MADE TO REDISTRIBUTIONS OF
PROVINCIAL TERRITORIES ON A
RACIAL OR LINGUISTIC BASIS.**

Introductory Note on claims which have been made to Redistributions of Provincial Territories on a Racial or Linguistic Basis.

Separate memoranda are being presented to the Commission on the subject of the transfer of Sylhet from the province of Assam to the Bengal Presidency; on the amalgamation of the Oriya-speaking peoples; and on the formation of separate Andhra, Tamil and Kannada provinces. This note is confined to brief introductory general comment on the subject of these claims to redistributions of territories on a racial or linguistic basis.

2. Two sections of the Government of India Act relate to the redistribution of territories between provinces. Section 52A of the Act lays down the procedure necessary for the constitution of a new Governor's province, or for placing part of a Governor's province under the administration of a Deputy Governor. Section 60 of the Act confers power on the Governor-General in Council to alter provincial boundaries, subject to the qualifications that an entire district may not be transferred from one province to another without the previous sanction of the Crown, signified by the Secretary of State in Council, and that any notification published by the Governor-General in Council under this section may be disallowed by the Secretary of State in Council.

It follows that where the claim to a redistribution of territory affects only a portion of a district, or of districts, the matter can be dealt with by the Governor-General in Council under his own authority. If an entire district is to be transferred, the previous sanction of the Crown is necessary, such sanction being signified by the Secretary of State in Council. For the formation of a new Governor's province, or of a sub-province under the administration of a Deputy Governor, a special form of procedure is laid down by section 52A; before the Governor-General in Council can seek the sanction of His Majesty to the constitution of a new Governor's province, or of a sub-province, there must first have been obtained an expression of opinion from the local Government and from the local legislature affected by the proposal. In addition to this statutory provision, which reflects views expressed by the Joint Select Committee of Parliament on clause 15 as it read in the Government of India Bill, cases falling under section 52A would be held to be governed by the further comment of the Joint Select Committee of Parliament, that any clear requests made by a majority of the members of a Legislative Council, representing a distinctive racial or linguistic territorial unit, for its constitution as a sub-province, or a separate province, should be taken as a *prima facie* case, on the strength of which a commission of enquiry might be appointed by the Secretary of State; and, secondly, that it should not be a bar to the appointment of such a commission of enquiry that the majority of the Legislative Council of the province in question is opposed to the request of

the minority representing such a distinctive territorial unit. The procedure then for the appointment by the Secretary of State of a special *ad hoc* commission of enquiry relates only to cases falling under section 52A, and not to cases falling under section 60.

3. Of the five specific proposals for provincial redistributions, mentioned in paragraph 1 of this note, those for the formation of separate Andhra, Tamil and Kannada provinces fall clearly within the provisions of section 52A. The transfer of the Sylhet district from the province of Assam to the Bengal Presidency would normally fall simply under section 60, were it not that the transfer of that district has been held to be inseparable from a consideration of the future status of the province of Assam as a Governor's province. The claims of the Oriya-speaking peoples to amalgamation might be dealt with simply under section 60 if they involved merely the transfer to the existing province of Bihar and Orissa of portions of districts from the Madras Presidency, or from the Central Provinces or from Bengal; but the claim made by the Oriyas themselves is for a separate Oriya province towards which the amalgamation of the Oriya-speaking tracts with one or other of the existing provinces would be only a stepping-stone. So long as the formation of a separate Oriya province is the objective, redistributions of territory taken with that end in view would tend to lie more properly under section 52A than under section 60.

4. In view of the comments made by the Joint Select Committee of Parliament, the Government of India have consistently adhered to the opinion that it is unreasonable to expect either the Central Government, or the central Legislature, to consider claims for provincial redistributions which have not been first debated in the Legislative Councils of the provinces concerned. The resolutions moved in the central Legislature for the formation of separate Andhra, Tamil and Kannada provinces, none of which were adopted by the central Legislature, have all failed to comply with the conditions precedent upon which the Government of India have insisted. Those conditions are, first, that proposals for the redistribution of territories on a linguistic or racial basis must indicate very strongly that they are supported by a genuine popular demand, and, second, that opinion should in the first instance be expressed in the local Legislative Councils. No resolution has yet been moved in the Madras or in the Bombay Legislative Council for the formation of a separate Kannada province; no resolution has yet been moved in the Madras Legislative Council for the formation of a separate Tamil province. After the resolution for the formation of a separate Andhra province had been lost in the Council of State in February 1927, a resolution was moved on the same subject in the Madras Legislative Council in March 1927 and carried by 40 votes to 32. Of the members representing Telugu constituencies present in the Council Chamber during the debate, 17 voted in favour of the resolution, 5 voted against it, and 6 remained neutral. A copy of the debate was forwarded by the Government of Madras without

comment to the Government of India, who reported it to the Secretary of State. Notice of a resolution to be moved in the Legislative Assembly recommending the formation of an Andhra province was then given by a non-official member and the resolution was drawn for discussion on the 20th September 1927; the mover, however, withdrew his resolution without giving reasons. The Madras Legislative Council has since made a token cut in the provincial budget estimates for the year 1928-29 to signify a censure on the local Government for neglecting to press the question of the formation of a separate Andhra province upon the attention of the Government of India.

The position then with regard to these three cases is that resolutions moved in the central Legislature for the formation of separate Kannada and Tamil provinces have been lost, and no resolution in favour of the proposals has yet been carried in the provincial Legislative Councils concerned; the case for the formation of a separate Andhra province rests with the position described above.

5. The proposal for the transfer of the Sylhet district from Assam to Bengal has been approved by the Legislative Councils of the two provinces and accepted by both local Governments. A resolution in the central Legislature moved at an earlier stage in the examination of the case was withdrawn in view of an assurance given by the Government of India that the whole question was the subject of correspondence with the provincial Governments. The case for the transfer of Sylhet now rests with the announcement made by the Government of India in June 1926 that, in agreement with a ruling of the Secretary of State, the Government of India have reserved the two questions of the transfer of Sylhet, and its consequent effect upon the future status of Assam, for consideration by the Statutory Commission.

6. The treatment by the Government of India of the claims of the Oriyas, whether to a separate province or to amalgamation under a single administration, has followed a rather different course. After the issue of the Joint Report on Indian Constitutional Reforms, and before the new constitution had been introduced, a resolution was moved in the old Imperial Legislative Council in February 1918 by a member from Bihar, suggesting the appointment of a small committee to investigate the matter. The Home Member made it clear that it would not be appropriate at that stage for a committee to be appointed by the Government of India; the views of the provincial Legislative Councils were an essential preliminary. He undertook, however, to assist in collecting material and information which would be laid at the disposal of the four provinces affected by the proposal. The memorandum presented to the Commission describes the examination of the problem which has since been made, and explains that the next step rests with the provinces, and not with the Government of India. The general principle of the amalgamation of the Oriya-speaking tracts was accepted by the Bihar and Orissa Legislative

Council in December 1921. The matter was once discussed in a tentative manner in the Madras Legislative Council in the same year, but without any definite opinion being recorded. The amalgamation of the Oriya-speaking tracts of the Bengal Presidency or of the Central Provinces has not been discussed in the Legislative Councils of either of those two provinces.

7. In the circumstances described, there has been no official examination by the Government of India of claims made for the formation of separate Andhrā, Tamil or Kannada provinces. The transfer of Sylhet from Assam to Bengal has been considered, but has been reserved for consideration by the Statutory Commission in view of its possible effect upon the status of the province of Assam. With regard to the amalgamation of the Oriya-speaking tracts a considerable amount of information has been collected and has been placed at the disposal of the Commission in the separate memorandum prepared on that subject.

8. It is possible from the discussions which have taken place on the subject of provincial redistributions to separate broadly the arguments used in their favour and those employed against them. In paragraph 246 the joint authors of the Report on Indian Constitutional Reforms observed that they were impressed with the artificial, and often inconvenient character of existing administrative units; they stated that they could not doubt that the business of government would be simplified if administrative units were both smaller and more homogeneous, and that such considerations acquired additional weight when the burdens of government were being transferred to comparatively inexperienced hands. The joint authors were of opinion that it was a strong argument in favour of linguistic or racial units of government that by making it possible to conduct the business of legislation in the vernacular, they would contribute to draw into the arena of public affairs men who were not acquainted with English.

Six years later the Reforms Enquiry Committee stated in paragraph 58 of their report that they felt that the difficulties in the working of responsible government in India were much enhanced by reason of the large size of several provinces, their artificial and unnatural boundaries, and the want of homogeneity in their populations. While agreeing with the authors of the Montagu-Chelmsford Report that a redistribution of provincial areas cannot be imposed upon the people by official action, they considered it probable that the problem would have to be considered in connection with any considerable constitutional advance.

9. Those who have come forward since the institution of the reforms with specific proposals for the linguistic or racial redistribution of particular areas have relied, in the first place, on the broad general considerations stated by the authors of the Montagu-Chelmsford Report and by the Reforms Enquiry Committee. As their second line of argument they have endeavoured to indicate the injurious effect of their present grouping on the development of particular peoples. For instance, it has been asserted that as

a result of their division between different provinces and Indian States the language of the Kannarese has been mutilated, their culture destroyed, and their traditions, literature and art have been forgotten. Similar assertions are made in respect of the Oriyas to support the demand for the amalgamation of the Oriya-speaking tracts. The Telugus and the Tamils are not distributed between different provinces. In their case the grievance is that they each share a province with other peoples dissimilar in thought and in speech from themselves. The Sylhet district probably occupies a stronger position in the small province of Assam than it would occupy as an outlying district of the Bengal Presidency: the demand of the predominant Bengali population to be amalgamated with the Bengal Presidency rests almost exclusively on racial sentiment.

The third group of arguments in favour of particular provincial redistributions arises only where the people of the particular race or language who claim amalgamation either in a province of their own or under a single administration are distributed over two or more provinces. In that event it is represented that those sections of the people living in the outlying tracts suffer from administrative or other disabilities owing to their separation from the bulk of the peoples with whom by race and language their natural affinities lie. For instance, in claiming amalgamation with the Orissa districts, the Oriyas of Ganjam have represented *inter alia* that as a small element in the composite population of the Madras Presidency, they are unable to obtain adequate representation in the public services and on the local bodies of the districts in which they reside; that there is difficulty in securing instruction in the Oriya language for their children, and that Oriya students are at a disadvantage in pursuing a higher course of study to obtain a university degree. This third line of argument relates in short to particular administrative difficulties and disabilities which vary with the locality.

10. Arguments in favour of provincial redistributions fall thus into three main groups resting (a) upon the general consideration that responsible government flourishes best in small homogeneous units; this is a general principle applied by those who adopt it to all claims to redistribution on linguistic or racial lines; (b) upon the satisfaction of popular sentiment, and the preservation of particular systems of culture, language and thought; and (c) upon the improvement of the administration by the removal of disabilities to which isolated groups of peoples are exposed if separated from the bulk of the peoples with whom by race or by language they should naturally be united.

11. The opposite school of thought has met these arguments on somewhat the following lines. As a general theoretical proposition it is not contested that responsible government is likely to flourish best in small homogeneous units; but before that proposition can be applied, practical considerations require to be taken into account. First among these is the consideration that

the formation of administrative divisions on a linguistic or racial basis must operate to weaken Indian unity, and is on that account to be avoided. Secondly, the creation of new provinces cannot but increase the overhead charges of administration and leave inadequate funds for the development or healthy growth of provincial institutions. Thirdly, historical, political, and commercial conditions are of equal, if not greater importance than sentimental considerations of race and language in determining the boundaries of administrative divisions, nor can questions of land and water communication be ignored. Lastly, purely administrative difficulties existing under the present distribution may be found susceptible of mitigation, if not removal, in other ways than by territorial redistributions, which necessarily entail inconvenience and unsettlement to administrators, litigants, landlords and tenants, and other sections of the public. Unwise redistributions of provincial boundaries undertaken to meet the sentiments of a particular people may in the event arouse more discontent than exists to be allayed.

12. The general conclusion towards which these discussions have tended to lead is that in no case can the linguistic or racial principle be accepted as the sole test, or as supplying in itself the ultimate and final basis for territorial redistributions. Each proposal requires consideration on its merits with strict relation to the conditions of each. Territorial changes should be confined to those from which it can be shewn that substantial benefit will be derived.

**THE FORMATION OF A SEPARATE ANDHRA
PROVINCE.**

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The formation of a separate Andhra Province.

Discussions in the Central Legislature, and in the Madras Legislative Council.

1. The question of forming a separate Andhra province has twice been before the Government of India as a separate specific issue on resolutions moved, the first, in the Legislative Assembly, and the second in the Council of State. The resolution in the Legislative Assembly was withdrawn; the resolution in the Council of State was negatived by 28 votes to 11. Subsequently a resolution in favour of the proposal carried in the Madras Legislative Council by 40 votes to 32, was reported to the Government of India.

Mr. Ramayya Pantulu's resolution debated in the Legislative Assembly on the 3rd February 1922, and withdrawn.

2. The resolution in the Legislative Assembly was moved by Mr. J. Ramayya Pantulu on the 3rd February 1922, and read as follows:—

This Assembly recommends to the Governor-General in Council that the Andhra districts of the Madras Presidency should be constituted into a separate province, and that he may be pleased to take early action in this respect.

The mover began by referring to two conditions which had been laid down by the Home Member in the debate on a resolution which had been moved by Mr. Latthe in the Legislative Assembly on the 21st September 1921 on the subject generally of the reconstitution of provincial boundaries. Those conditions were, first, that a specific case should be brought forward, and, second, that the initiative should rest with the local Government and the local Legislature. The mover met the first condition by raising specifically the formation of a separate Andhra province: with regard to the second condition he expressed the opinion that section 52-A of the Government of India Act authorised the Governor-General in Council to take action without waiting for an expression of opinion from the local Government.

The mover claimed that the question of forming an Andhra province had been before the public in one form or another for the previous ten years. He dated the Andhra movement from the year 1911, and said that differences of opinion which had first made themselves felt among Andhras had gradually given way to a consensus of thought in favour of a separate Andhra province. The subject had been mentioned in a debate in the old Imperial Legislative Council in February 1918 on a resolution recommending the redistribution of provinces on a linguistic basis: and the claims of the Andhras to a separate province had been placed prominently before the Viceroy and the Secretary of State in 1917.

The mover next sketched briefly the earlier history of the Madras Presidency. He said that the four Andhra coast districts, known as the Northern Circars, acquired by grant from the Emperor of Delhi in 1765, formed the original nucleus of the province; in 1792 further territory was acquired as a result of the Mysore wars, and still more, in 1799, owing to the abdication of the Raja of Tanjore. In 1800 the Nizam of Hyderabad ceded the Telugu (Andhra) districts since known as the ceded districts. In 1801 the Nawab of the Carnatic retired on pension in favour of the British Government, and his territory was tacked on to the administration of the Madras Government. From this the mover argued that owing to the diverse elements which it comprised the Madras Presidency was unsuitable as an administrative unit. Under responsible government provinces should be homogeneous; the Madras Presidency was in any case too large for efficient administration. At the time when the resolution was debated all three Ministers in the Presidency were Andhras, and there were two Andhra Judges on the Madras High Court; the Andhras felt that the time had come when they should run a province of their own.

The mover did not define the precise territory, which he would include in an Andhra province, but claimed that a compact unit could be formed. He stated that the country extending along the east coast from Ganjam almost to Madras was exclusively Telugu. He quoted census figures which showed that there were more than 15 million Andhras in the Madras Presidency; and estimated on that ground that the population of an Andhra province would exceed the population either of Burma, of the Central Provinces or Assam, and would be little less than the population of the Bombay Presidency or of the Punjab.

In the important matter of provincial finance the mover calculated that the revenues of an Andhra province would be roughly about half the revenues of the Madras Presidency as at present constituted, and claimed that its resources would exceed those of any of the provinces of Burma, the Punjab, Bihar and Orissa, the Central Provinces or Assam.

3. The mover was followed by a nominated official from Madras who expressed surprise that the resolution should have been moved in the Legislative Assembly without prior discussion in the Madras

Legislative Council. He took the point that the Andhras did not suffer by their association with Madras; on the contrary they had established a position of great influence in the Presidency: in his opinion a great objection to the scheme was the increased cost which it would entail. Brief speeches were made by a representative of the city of Madras, who considered the proposals premature, and by an Assam member who considered that in view of the general financial position of the country policy should be directed towards uniting and amalgamating provinces rather than towards dividing them and creating new provinces.

4. The Home Member opposed the resolution on behalf of the Government of India and argued that, in view of its lack of local knowledge, it was unreasonable to expect the Assembly to take the initiative in a matter on which the views of those directly concerned had not been expressed. If a motion to form a separate Andhra province secured substantial support from the Andhra representatives in the Madras Legislative Council, it would be incumbent upon the local Government to refer the matter to the Government of India, who would then, and only then, consider what action should be taken, and whether a special *ad hoc* commission of enquiry should be appointed to investigate the matter. The Home Member anticipated that there might be difficulties in defining the boundaries of a separate Andhra province, and referred in particular to the districts of Ganjam where the proportion of Telugu-speaking peoples is comparatively small, and of Bellary where only 33 per cent. of the population speak Telugu. He further warned the House that in matters of this kind it would be unsafe to base conclusions merely on linguistic tests. There were other considerations of equal importance, financial and administrative, historical and sentimental, which could not be ignored. The Home Member suggested to the mover that as he had not obtained support even from members of his own province, he should withdraw his resolution.

5. In concluding the debate the mover admitted that additional expenditure might be involved, but it would fall upon the Andhras who were prepared to bear the burden. With reference to the Ganjam district he stated that when an Andhra province was formed, it might be possible to amalgamate the Oriya-speaking part of the district with the Oriya-speaking tracts on the North. He admitted that there were difficulties with regard to the two districts of Bellary and Anantapur which contained a large Kannarese population: but held that these districts could never form part of a Kannada province, because the only Kannarese territory with which they could be united was the State of Mysore, and that they would be no worse off in a separate Andhra province than they were now in the Madras Presidency. The mover stated that he did not wish the Assembly to commit itself at that stage: his object was to have enquiry instituted; in view however of the lack of support which he had received in the Assembly and of the sympathetic reply given by Government, he was prepared to withdraw his resolution.

The resolution was, by leave of the Assembly, withdrawn.

6. The second resolution bringing the question of the formation of a separate Andhra province as a separate specific issue before the Government of India was moved in the Council of State on the 16th February 1927 by the Hon'ble Mr. Ramadas Pantulu recommending.

Resolution moved in the Council of State by the Hon'ble Mr. Ramadas Pantulu on the 16th February 1927 negatived by 28 votes to 11.

"...to the Governor-General in Council to advise His Majesty's Government to take such steps as may be required to constitute the Andhra (Telugu) districts of the Madras province into a separate province with a full measure of responsible government".

In the years which had elapsed since Mr. Ramayya Pantulu had moved his resolution in the Legislative Assembly in 1922, no resolution had been moved in the Madras Legislative Council. In the course of his speech, the mover made no reference to that resolution, nor to the statement of the position of the Government of India expressed in the course of that debate, namely, that 'if a resolution were to be moved in the Madras Council, and the local Government could obtain an expression of opinion from the members coming from the areas affected, then and then only would the Government of India be prepared to consider what, if any, action should be taken by them'. The mover referred, however, to a statement of the policy of the Government of India expressed by the Home Secretary in the previous year in replying to a resolution on the subject of the formation of a separate Kannada province, when he said that there were certain conditions precedent requiring fulfilment before any proposal for provincial redistributions could be considered by the Government of India, those conditions being that the proposal "shall emanate directly from the community concerned, that there should be the strongest indications of a very large measure of public opinion in that community behind the proposal, and that such public opinion ought in the first instance to be expressed through its proper primary and constitutional channel, the local Legislative Council".

The mover claimed that in the matter of the claims of the Andhras to a separate province these conditions had been amply satisfied. He sketched the growth of the Andhra movement which he stated to have originated at about the time of the anti-partition agitation in Bengal; he referred to the annual conferences of the Andhras; to the attention given to their claims in a debate on a resolution in favour of the linguistic redistribution of provinces moved in the old Imperial Legislative Council by Sir (then Mr.) B. N. Sarma on the 6th February 1918; and to a memorandum on the subject presented to the Joint Select Committee of Parliament (*vide* Appendix V, Volume III of the proceedings of the Joint Select Committee on the Government of India Bill). Though no resolution had been moved in the Madras Legislative Council, he claimed that there was practical unanimity in favour of the proposal among the Andhra members of that Council. He con-

7. Four Madras members took part in the debate which ensued. The Hon'ble Dr. Rama Rau briefly supported the resolution and expressed the hope that in view of the fact that the date for the appointment of the Statutory Commission was approaching, the whole question of the distribution of provinces on a linguistic basis should be taken up immediately and solved to the satisfaction of the Andhras, the Kannarese and the Oriyas. The Hon'ble the Raja of Bobbili considered that financial and other difficulties put the proposition for a separate Andhra province outside the pale of practical politics. The Hon'ble Mr. Evans, a nominated official member, opposed the motion on the grounds that no resolution had been moved in the local legislature and there was no evidence of a strong popular demand; that the Telugu districts had not suffered by their inclusion as part of the Madras Presidency (for instance, they had been given two first class irrigation schemes and, recently, an Andhra university); that those districts would have financial difficulty in supporting a separate administration of their own; that there would be practical difficulties in determining the boundaries, particularly in the Bellary district; that it was doubtful whether there was any real common bond of tradition or culture between the Telugu districts; and, lastly, that politically the creation of these "sub-nations" was of doubtful expediency in the interests of the country as a whole. The fourth Madras member to speak on the resolution, namely, the Hon'ble Sir Sankaran Nair, reserved himself to reply to the statement made by the Home Secretary of the position of the Government of India. In the meantime the resolution had been supported by a member from Burma and opposed by a member from Bengal, who suggested that the mover of the resolution would have been better advised to await the arrival of the Statutory Commission before bringing forward his claim for full responsible government for a separate Andhra province.

8. The Home Secretary took the two parts of the resolution separately under consideration, and with reference to the first part, stated that the Government of India were in no sense hostile to the underlying principle of the establishment of provinces on a linguistic basis, but their view was that any proposal of that kind required very careful examination; in fact, their attitude was one of neutrality. While the principle itself was attractive, there were certain obvious limitations on its practical application, and the first condition in dealing with proposals of this kind was that the Government should not act in advance of or in opposition to public opinion. For that reason, the Government of India had laid down very clearly that before they can consider any such proposal, they must be satisfied that there is a real popular demand and that if that popular demand exists they may expect to find it voiced in the local Legislative Council. This condition had not been fulfilled in the case of the resolution before the House. He dissented from the view expressed by the mover that section 52-A imposed an onus upon the Government of India to ascertain opinion, and expressed the view that the comments of the Joint Select

Committee on clause 15 of the draft Government of India Bill made it clear that they intended the initiative to rest with the local Council and the people immediately concerned. He observed that the proposal appeared to be part of a general scheme for dividing the Madras Presidency into three provinces. There had now been three resolutions for the formation, first, of an Andhra province (again repeated in the resolution under discussion); then for the formation of a Kannada province; and then for the formation of a Tamil province. The Home Secretary suggested to the mover that if he wished his proposal considered his best course was first to obtain what he had not yet established, that is to say, unequivocal local support. When that has been done, he would be in a position to approach the body which alone could give a decision in the matter, and that was the Statutory Commission.

With regard to the second part of the resolution relating to the establishment of complete self-government in a separate Andhra province, the Home Secretary stated on behalf of the Government of India that it would clearly be impossible to consider the constitution for a single province without entering into the difficult question of its relations with other provinces and with the Central Government. This again was a matter which must come before the Statutory Commission. It was no use working at a small corner of a building until a plan for the whole had been decided; that could be done only after the Statutory Commission had visited India and had considered the needs and wishes of all parts of India and submitted a comprehensive plan for the whole.

On these grounds the Home Secretary held that the resolution was premature, and that the conditions which the Government of India had invariably laid down as precedent to considering any action by themselves had not been fulfilled. For these reasons the resolution was opposed by the Government of India.

The Hon'ble Sir Sankaran Nair, who a year previously had unsuccessfully moved a resolution in the Council of State for the formation of a separate Tamil province with complete responsible self-government, gave his support to the resolution and replied to the Home Secretary's arguments by the suggestion that it was for the Government to supply the machinery by which popular feeling could be tested: this could be done by the appointment of a committee of enquiry; it was true that the matter had not been debated in the Madras Legislative Council, but the proposal was not for the partition of provinces to continue under the existing system of government, but for the creation of a separate self-governing province; in the circumstances the matter was properly raised in the Central legislature. Instead of the matter being deferred till the Statutory Commission came out to the country, it would be better that it should be taken up and examined at once, since the enquiries might be expected to extend over two or three years.

The resolution was put to the vote and was lost by 28 votes to 11.

9. A month later, on the 14th March 1927, Mr. P. Anjaneyulu moved a resolution in the Madras Legislative Council to the effect that—

“ This Council recommends to the Government to recommend to the Governor-General in Council that the contiguous Telugu-speaking areas in the Presidency be constituted into a separate Andhra province for all legislative, administrative and judicial purposes ”.

Mr. Anjaneyulu's resolution carried in the Madras Legislative Council on the 14th March 1927 by 40 votes to 32.

It will be observed that this resolution made no reference to the particular form of self-government which the province should enjoy. Seventeen members participated in the debate, a great part of which was concerned with the discussion of an amendment which proposed to exclude the ceded districts and the district of Chittore from the scope of the resolution. The mover of the amendment explained that he was not opposed to the formation of a separate Andhra province, but wished to exclude the ceded districts and Chittore which he considered would fit in better into a separate province to be formed of the central districts of the Madras Presidency, with a third separate province consisting of the southern districts. This amendment, which was eventually lost, was opposed on the ground that the grouping of the ceded districts and Chittore could be reserved for subsequent consideration, and should not prejudice the voting on the formation of a separate Andhra province.

10. The arguments in favour of the original resolution covered much the same ground as the arguments raised in the earlier debates in the Assembly and in the Council of State. The mover entered with rather greater detail into the financial aspects of separation, and claimed that since the Andhras had now been conceded a University of their own, they should not be denied a separate province. The speeches of some members in support of the resolution were inclined to be contingent upon support for separate Tamil, Kanarese and Malayali provinces. An Oriya member of the Council claimed that the Oriya-speaking tracts belonged to Orissa and should not pass into a separate Andhra province. Only three speakers opposed the motion; Mr. Arpudawami Udayar pointed out that the Andhra University was the outcome of special cultural needs, but there were not the same administrative and political needs for a separate Andhra province. In his opinion a separate province was undesirable economically, and undesirable from a national standpoint; the formation of provinces on a linguistic basis would set back the clock of progress and accentuate separatist and communal tendencies. Diwan Bahadur M. Krishnan Nayar opposed the resolution for financial reasons and because he objected to the question of an Andhra province being taken up separately; if it were necessary to divide up the Madras province linguistically, this could best be done by the appointment of a committee to decide how many provinces should be constituted, whether three or four on the basis of languages, Telugu, Tamil, Malayalam or Kanarese.

11. The views of the Government of Madras were briefly stated by the Hon'ble Mr. Marjoribanks who said that the question of dividing provinces on a linguistic basis could scarcely be considered with reference to a single province; if considered with reference to the whole of India, very careful examination would be required of the political and economic effects. If the whole of India were to be divided into provinces constituted on a linguistic basis, they might not afford altogether as promising a field for the advancement of self-government, as they would if they remained constituted as at present. He had no doubt that the question would have to be dealt with at length before the next advance, when the reforms took place.

The resolution as carried by 40 votes to 32. Of the members representing Telugu constituencies present in the Council Chamber during the debate 17 voted in favour of the resolution, 5 voted against the resolution, and 6 remained neutral.

The proceedings of the Madras Legislative Council were reported, without comment, by the Government of Madras to the Government of India, and brought by them to the notice of the Secretary of State.

Mr. Jogiah's resolution withdrawn in the Legislative Assembly on the 20th September 1927 without debate.

12. Mr. V. V. Jogiah representing the Ganjam *cum* Vizagapatam Non-Muhammadan Rural constituency of the Madras Presidency in the Legislative Assembly followed up the debate in the Madras Legislative Council by notice of a resolution to be moved in the Assembly in similar terms, namely that—

“ This Assembly recommends to the Governor-General in Council to take steps, at an early date, to constitute the contiguous Telugu-speaking areas in the Madras Presidency, into a separate province for all legislative, administrative and judicial purposes ”.

The resolution was drawn for the 20th September 1927, but, without giving reasons, the mover asked for and obtained leave to withdraw and the resolution was not debated.

Subsequent discussion in the Madras Legislative Council.

13. The question of the formation of a separate Andhra province has since been again raised in the Madras Legislative Council on a token cut moved on the 19th March 1928 on the budget estimates for 1928-29, and accepted by the Council. The mover explained that his object was to draw attention to the neglect of the provincial Government in failing to press upon the Government of India the need for forming a separate Andhra province. When the House divided, 44 members voted for the motion; 20 members voted against the motion; and 29 members remained neutral.

**THE FORMATION OF A SEPARATE TAMIL
PROVINCE.**

The Formation of a separate Tamil Province.

1. The only occasion on which the formation of a separate Tamil province has been before the Government of India as a separate-specific issue has been the moving of a resolution in the Council of State on the 15th March 1926 by the Hon'ble Sir Sankaran Nair recommending—

“ to the Governor General in Council to advise His Majesty's Government to take such steps as may be required to constitute the following districts inhabited by the Tamil-speaking race, that is to say, Chingleput, North Arcot, Salem, Coimbatore, South Arcot, Tanjore, Trichinopoly, Madura, Ramnad and Tinnevely, into a province with complete self-government.”

2. In putting forward his scheme on behalf of the Tamil-speaking peoples, the mover stated simply that he did so primarily because he was himself well acquainted with the conditions of the Madras Presidency, and because he was of opinion that the Tamil districts were entitled to autonomy. He claimed that the Tamils possessed a culture which was not inferior to any other in the world, and were intellectually fit to conduct their own administration. As a further point he claimed that the reforms had been successfully worked in the Madras Presidency and the time had come for a further advance.

3. The greater part of the mover's speech was devoted to a description of the particular form of provincial self-government which he recommended.

The Government of the Province was to consist of the King represented by the Governor, a Senate, and a House of Commons. This Parliament was to have power to make laws for the peace, order and good government of the province, including taxation, expenditure, loans, postal and telegraphic services, railways, aeroplanes, naval, military and air forces. The mover held that there was no danger in giving the province control of its own defence. Since it lay in the extreme south of India it need not fear any foreign invasion, and would require an army only for police purposes; at the same time it was desirable to create a Tamil army so that when British India eventually obtained Home Rule, there might be armies created by the provinces which would be able to undertake the defence of the Empire. The mover suggested that, during peace, the Government of the province should have the entire control of its own forces; during war, their control would pass to the Viceroy and the Commander-in-Chief with power to remove them from the province for use either in British India or elsewhere.

The House of Commons was to consist of 300 members chosen by single electoral districts by universal suffrage and secret ballot; no

person less than 30 years of age was to possess a vote; an elector would be entitled to one vote only and would have the right to vote in any electoral district that he chose; each district would contain not less than 25,000 electors. Universal suffrage was recommended as being necessary in the interest of the lower classes. The mover claimed that all the benefits of communal representation would be secured by allowing the elector to choose his own electoral district. This provision would enable the Muslim voters in various districts to choose a particular district for voting and thus secure a majority in that district. Each member of the House of Commons would sit for three years; one-third of the members vacating their seats by rotation annually.

The Senate was to consist of persons who possessed an annual income of not less than Rs. 1,00,000 and members of the Civil Service who had retired after 20 years' service. Any law passed by the House of Commons was to become operative when it received the assent of the Senate. The Senate would possess power to refer a measure for further consideration after the next election of 100 members, but it was not to be given any final veto; provision was made in certain cases for measures in dispute to be decided by a referendum to the electorate.

On the subject of the Services, the mover suggested that the Civil Service of the province should be recruited solely by competition, either in the province itself or in England, under generally the same conditions as at present prevail, but that after 5 years it would be open to the Parliament to make fresh regulations.

The mover made no reference to the form of the Executive which he had in mind.

The mover made no proposals relating to the constitution of the Government of India; he said that in his opinion such proposals should be made by the Parliaments of the self-governing provinces of India in consultation with each other; in putting forward his scheme of self-government for the Tamil districts he wished to keep the issues as simple as possible.

4. The resolution was opposed by the Home Secretary on behalf of Government. Attention was drawn to the fact that the resolution raised two issues which there was some difficulty in meeting in the course of a single debate. These two issues were in the first place the constitution of a province on a linguistic basis, and, secondly, the grant to a province, so constituted, of complete self-government. The Home Secretary drew attention to the fact that the mover had passed lightly over the first of these two issues, and took the opportunity to explain to the House the attitude of Government to the general proposition of the constitution of provinces on a linguistic basis, and to any particular proposition taking that form. In accordance with the policy laid down in the Joint Report and in the Joint Parliamentary Report on the Government of India Bill, the policy of Government with regard to these proposals was

sympathetic, but they must insist as precedent conditions to the consideration of any such proposition, first, that the proposal must emanate directly from the community concerned; second, that there should be the strongest indications of an effective measure of public opinion in that community behind the proposal, and third, that such public opinion ought, in the first place, to be expressed through its proper constitutional channel, namely the local Legislative Council. These conditions had not been fulfilled in the case under discussion. The mover's scheme of complete self-government was criticised by the Home Secretary in general terms; in regard to matters of defence attention was drawn to the protection given to the Madras coast by the British Navy.

5. The debate was resumed on the 16th March. The mover obtained support from a Berar member and from a Tamil member representing a Burmese constituency, but the remaining speakers were opposed to the resolution. The Hon'ble Mr. Murarji, representing a Bombay constituency, resented the implication that the Tamil-speaking districts were more ready by reason of their political advancement for an experiment in self-government than any other linguistic area in the country; he was not in sympathy with piecemeal reform of that kind. The Hon'ble Colonel Nawab Sir Umar Hayat Khan contended that the multiplication of independent provinces would revive the conditions which existed when India was divided up between a number of rulers; the armies of the different States would be unable to unite for any common purpose. The Hon'ble Mr. K. C. Roy, a nominated non-official, expressed himself to the effect that any attempt to divide India on a language basis was a proposition fraught with grave difficulties, communal, political and geographical. Mr. Roy stated that he stood for the political and geographical distribution of India as it existed to-day; this distribution had been made as the result of their experience by great administrators and has stood the test of time. The Hon'ble the Raja of Bobbili commented that if language were to be taken as a criterion the Madras Presidency would need to be split up into three provinces speaking Tamil, Telugu and Kannarese, and there would have to be a fourth province consisting of the district of Malabar in which Malayalam is spoken.

6. The motion was negatived without a division.

THE FORMATION OF A SEPARATE KANNADA
PROVINCE.

The Formation of a separate Kannada Province.

1. The only occasion on which the formation of a separate Kannada province has been brought as a separate issue before the Government of India was on a resolution moved in the Council of State on the 17th February 1926 by the Honourable Rao Sahib Dr. U. Rama Rao recommending that—

A committee of officials and non-officials be forthwith appointed to enquire into, and suggest ways and means for, the formation of a separate Kannada province.

The mover referred to the distribution of the Kannarese people over parts of the Madras Presidency and the Bombay Presidency, the Mysore State, the Nizam's Dominions and Coorg, and said that as a result of their division between these different states and provinces, the language of the Kannarese was mutilated, their culture destroyed, and their traditions, literature and art forgotten. He stated that, as matters stood, the Kannarese were unable to exercise sufficient influence either in the Madras or in the Bombay Councils. The mover claimed that the formation of a separate Kannada province represented the long-standing ambition of the Kannarese, who had presented a memorial to that effect to the Secretary of State in 1917. The scheme which the mover propounded was the constitution of a separate Kannada province to consist of the following portions of British India, namely—

- (a) the Belgaum, Dharwar, Bijapur and North Kannada districts from the Bombay Presidency;
- (b) the Bellary, Anantapur, Hosur, and South Kannada districts and the Nilgiris from the Madras Presidency; and
- (c) the province of Coorg.

He stated that a province so formed would cover an area of 43,615 square miles with a population of more than eight millions, and he claimed that it would possess sufficient revenues to run its own administration.

2. An amendment to the resolution was moved by the Honourable Mr. V. Ramadas Pantulu, who wished to substitute a resolution to the effect that—

This Council recommends to the Governor General in Council that, with a view to the re-grouping of provinces, as far as possible, on a linguistic basis, a Committee with a non-official majority be appointed to enquire into, and suggest ways and means for, constituting the Kannarese-speaking tracts of the provinces of Madras and Bombay into a separate Kannada province.

The mover of this amendment explained that he was in substantial agreement with the resolution, and moved his resolution

merely in order to take the point that the claims of the Kannarese to a separate province should be dealt with as part of a comprehensive scheme of provincial reconstitution for the whole country. He referred, in particular, to the claims of the Telugus to have an administration of their own.

3. A non-official member from the Punjab opposed the resolution both on grounds of economy, and because he objected to further partitions which would have the effect of making the provinces too small. He was followed by a nominated official from the Bombay Presidency, who emphasised the following points:—

(a) that the division of all India linguistically would weaken its unity:

(b) that there was no strong popular demand for the formation of a Kannada province. Three years previously notice of a resolution to that effect had been given in the Bombay Council but the resolution was disallowed because, in the form in which it had been drafted, it recommended that portions of the Madras Presidency should be taken away and added to the Bombay Presidency; no amended resolution had since been brought forward; on the other hand, notices had been given of resolutions recommending increased representation for the Kannarese in the Bombay Council;

(c) that the grouping of districts recommended by the mover ignored the presence of people other than the Kannarese, and was unsuitable for administrative purposes. Disagreeing with the mover, the member estimated that the Kannarese people in any tract which could be formed into a separate province would not number more than about 3 millions. He claimed that there were only two districts which were almost entirely Kannarese, namely, Bijapur and Dharwar; in Belgaum and North Kannada the Kannarese preponderate; in South Kannada and Bellary there are a considerable number of Kannarese; elsewhere they are few; the Coorgs would resent losing their separate province; the province recommended by the mover would be merely a fringe of territory round the State of Mysore; and

(d) that the total revenues of the province would be too small.

4. Speaking on behalf of the Government of India, the Home Secretary drew attention to the fact that the requisite conditions had not been fulfilled. The Joint Select Committee of Parliament had made it clear that proposals for the redistribution of territories on a linguistic basis must indicate very strongly that they are backed by a genuine popular demand which must, or ought to, be expressed in the first instance in the local legislative Councils. The resolution invited official action in a matter which under every

consideration of prudence and statesmanship should be left to popular initiative.

5. In concluding the debate the mover claimed that there was sufficient evidence of a popular demand in the memorial presented to the Secretary of State in 1917, and in the formation by the Indian National Congress of a separate Karnataka branch.

6. The resolution and its amendment were both negatived without a division.

**THE AMALGAMATION OF THE ORIYA-SPEAKING
PEOPLES.**

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The Amalgamation of the Oriya-speaking Peoples.

The scope of the Memorandum.—This memorandum purports to give a brief account of the rise and growth of the movement among the Oriyas in favour of the amalgamation of the Oriya-speaking tracts. In order that the issues raised may be appreciated, it is proposed first to give some description of the tracts in which the Oriya-speaking peoples are found and then to trace the arrangements made from time to time for their administration, before discussing the later developments of the agitation in favour of the amalgamation of the Oriya-speaking peoples, whether in a separate province of their own or under a single administration. The memorandum will thus fall into three parts, the first of which will indicate the territories now inhabited by the Oriya-speaking peoples; the second will describe the arrangements made for their administration from the time when they passed under the control of the British Government up till and including the formation of the province of Bihar and Orissa in 1912; the third and last part of the memorandum will be devoted to an examination of the discussions

which have subsequently ensued on the subject of further administrative changes having for their object the union of the Oriya-speaking peoples.

I.

2. *The "holy land of Orissa".*—Whatever speculation there may be as to the geographical delimitation in ancient times of the province or kingdom of Orissa, the authentic home of the Oriya race may well be said to be within what are now the three sea-board districts of Cuttack, Puri and Balasore, which, together with the district of Sambalpur, which is divided from them by intervening Feudatory States, at present constitute the Orissa division of the province of Bihar and Orissa. These three districts form the strip of territory, washed on the south by the waters of the Bay of Bengal and hemmed in on the north by the broken highlands of the Orissa Feudatory States, to which Oriyas refer with affectionate pride as the "holy land of Orissa", the real Utkal. Orissa as a religious centre was described more than fifty years ago by Sir William Hunter in his *History of Orissa*, from which the following passage is taken:—

"For two thousand years Orissa has been the Holy Land of the Hindus. The ancient texts love to dwell on its sanctity. It is 'the land that taketh away sin'. It is 'the realm established by the gods'; and its Sanskrit name, Utkaladesa, literally the Glorious Country, has crystallised the devotional regard of forty generations..... From end to end it is one vast region of pilgrimage..... From the moment the pilgrim passes the Baitarni river on the high road forty miles north-east of Cuttack, he treads on holy ground. Behind him lies the secular world with its cares for the things of this life; before him is the promised land which he has been taught to regard as a place of preparation for Heaven..... There is not a fiscal division in Orissa without its community of cenobites, scarcely a village without fertile abbey lands, and not a single ancient family which has not devoted its best acres to the Gods."

The ancient temples which are the glory of the Puri district, the Jagannath temple in Puri itself and near by the black pagoda of Kanarak and the historic shrines at Bhubaneshwar are evidence of the religious importance of Orissa.

3. *The extension of the Oriya-speaking peoples.*—The first Oriyas must have established themselves on the sea-board at a very early date. It is a point worth mentioning that they did not enter Orissa by the hill passes. Sir William Hunter (Vol. I, page 201) states that there can be no question regarding the route by which they travelled.

"The local legends point to the same conclusions as the inductions of European scholars, and prove that the Aryan

colonists marched down the valley of the Ganges, and skirting round Bengal reached Orissa."

As their power grew, their natural line of extension was in the low-country round the sea-board to the South; but against the Telugus they made little real headway. The mountain-spurs, which run down to the sea on the south of the Chilka lake, formed a well-defined natural boundary which early tended to be accepted as a political boundary. Penetrating inland, the Oriyas left the plains for the hills and came into contact with the virile aboriginal races with which they had no racial affinity and with which, except on the fringes, they have never mixed. The penetration of the Oriyas into the hinterland followed the valleys of the numerous great rivers which pour their waters to the sea through Cuttack, Puri and Balasore, and to this day their distribution is in some respects governed by that factor. The Oriyas seem to have penetrated, sometimes as conquerors, sometimes as cultivators. The aborigines retired into the hill fastnesses and were not dislodged; but carrying their superior civilization and culture the Oriya immigrants absorbed the best lands in the valleys and open plains; and further opportunity came their way when the country of the Kols and other autochthonous tribes passed under the domination of Rajput overlords, whom Oriyas served as priests, courtiers, and advisers. Oriya culture thus extended its influence through the uplands, and brought under its sway peoples of various origins, differing in racial characteristics from the Oriyas of the sea-board and of the plains, but drawn together by the link of a language and of a culture in which they shared alike.

4. *Their present distribution.*—As a result of this expansion of the Oriya civilization, the Oriya-speaking peoples of present times are widely distributed beyond the sea-board which has been described above as the authentic home of the Oriya race. Oriyas early established a predominance in the lower Garhjat States. The northern part of the Ganjam district of the Madras Presidency, which marches with the Puri district, is inhabited to a great extent by Oriya-speaking peoples. In some parts of Vizagapatam, Oriya is the language most commonly heard. On the eastern border of the Balasore district, portions of the Bengal district of Midnapore are more characteristically Oriya than Bengalee. The Sambalpur district was claimed by the Oriyas as their own, and the claim was admitted by Government in 1905 when Sambalpur was transferred from the Central Provinces and amalgamated in the Orissa division under the then Government of Bengal. On the fringes of the Sambalpur district there are tracts still under the administration of the Central Provinces in which Oriya is freely spoken. Oriyas are found in the Singhbhum district of the province of Bihar and Orissa, and in the Feudatory States lying north of the Garhjats.

5. *Census statistics.*—The following tables indicate the distribution according to the census statistics of 1921 of the Oriya-speaking peoples under the four Governments of Bihar and Orissa, of Madras, of the Central Provinces and of Bengal.

A.—Oriya-speaking peoples under the Government of Bihar and Orissa.

	Total Population.	Orissa Population.
The Orissa Division—		
Cuttack	2,064,678	1,982,462
Balasore	980,504	924,628
Puri	951,651	921,213
Sambalpur	789,466	695,855
	<hr/> 4,786,299	<hr/> 4,524,158
The Orissa Feudatory States . .	3,959,669	2,940,338
Angul	182,574	133,789
Singhbhum	759,438	140,821
	<hr/> 9,687,980	<hr/> 7,739,106

Of these areas the four districts of Cuttack, Balasore, Puri and Sambalpur form the Orissa Division. The Orissa Feudatory States comprising the Garhjats, the States transferred from the Central Provinces in 1905 and other States formerly under the Commissioner of Chota Nagpur, together with the British district of Angul, are under the charge of a Political Agent and Commissioner whose headquarters are at Sambalpur. The Singhbhum district is part of the Chota Nagpur Division.

B.—Oriya-speaking peoples under the Government of Madras.

	Oriya population.
Ganjam	931,790
Agency Tracts	602,425
Vizagapatam	32,751
	<hr/> 1,566,966

C.—Oriya-speaking peoples under the Government of the Central Provinces.

	Oriya population.	
Bilaspur district—		
Chandrapur estate	1,378	
Padampur estate	17,075	
	<hr/>	18,453
Raipur district—		
Phuljhar estate	72,442	
Khariar estate	99,399	
	<hr/>	171,841
The Feudatory State of Raigarh . .	34,167	
The Feudatory State of Sarangarh .	24,411	
	<hr/>	58,578
		<hr/> 248,872

D.—*Oriya-speaking peoples under the Government of Bengal.*

	Oriya population.
Midnapore	142,107

As in the figures for other Governments also this figure, of course, excludes Oriyas who have migrated further afield. Thus, for obvious reasons, no account is taken of the one lakh or more of Oriyas in the Presidency division, many of whom are employed in Howrah.

According to these figures, the distribution of Oriyas between the four provinces is as follows:—

	Oriya population.
Bihar and Orissa (including the Orissa Feudatory States)	7,739,106
Madras	1,566,966
The Central Provinces	248,872
Bengal	142,107

Thus out of a total of approximately $9\frac{1}{2}$ millions of Oriya-speaking peoples $4\frac{1}{2}$ millions are under the administration of the Government of Bihar and Orissa; and three millions reside outside British India in the Orissa Feudatory States. Of the remaining two millions, $1\frac{1}{2}$ millions are under the administration of the Government of Madras. The district of Angul, which lies in the midst of the Orissa Feudatory States, is a backward tract wholly excluded from the jurisdiction of the Ministers and of the Legislative Council. The Sambalpur district in Bihar and Orissa and the Agency Tracts in the Madras Presidency are partially excluded backward tracts.

A linguistic map indicating the distribution of the Oriya-speaking peoples is enclosed in the first appendix to this memorandum.

II.

6. *The 'dismemberment' of Orissa.*—In the second appendix to this memorandum a copy is given of an address presented in 1917 to His Excellency the Viceroy and to the Secretary of State by representatives of the Utkal Union Conference, who expressed their grievance in the following words—

“The Oriyas were under one administrative system under Oriya monarchs who ruled for centuries over a vast tract of country between the sacred rivers, the Godaveri and the Ganges, and founded Puri (Jagannath) as the religious capital of India. Yet nothing in modern times has stirred the heart of the Oriya nation so deeply as their present administrative dismemberment under different local Governments.”

The memorialists sketched in outline the earlier history of Oriya political ascendancy in the tracts south of the Puri district and in particular in Ganjam, where the Gajapati princes of Orissa had

once been all-powerful. The memorialists drew attention to the fact that the British acquisition of the Ganjam district preceded their acquisition of Orissa by almost forty years, and stated that the administrative separation of other Oriya tracts was due to similar circumstances. Other leaders have on more than one occasion charged the British Government with direct responsibility for the dismemberment, or as they sometimes call it, the vivisection of Orissa. A few preliminary words are therefore necessary to describe the circumstances in which the several Oriya-speaking tracts came separately under British control. At the time of the first contacts of British officers with the Oriya-speaking peoples, there was no unity of the Oriyas under any single indigenous administration. The Oriya monarchs whom the memorialists of 1917 stated to have ruled for centuries over a vast tract of country between the Godavari and the Ganges had passed away long years before the British administration supervened.

7. *The province of Orissa, ceded to the British by the Bhonslas of Nagpur in 1803.*—During the 14th and the 15th centuries the Hindu kings of Orissa were successful in resisting the inroads of the Muslims and are said to have extended their dominions temporarily so far south even as the Pennar river: but their power then declined and their territories contracted. The last of these kings was overthrown in the latter half of the 16th century, and in the year 1592 Man Singh, Akbar's Hindu general, annexed Orissa to the Mogul Empire (the sea-board districts of the present Orissa division being included in that definition, but not the district of Ganjam). After entering into possession the Moguls had difficulty in retaining these rich rice lands against the cupidity of the Mahrattas, and in 1751 Ali Vardi Khan ceded the province to the Bhonslas of Nagpur in whose possession it remained until they in their turn ceded it to the British in 1803 under the treaty of Deogan which followed upon the decisive battles of Assaye and Argaum. During the time of their occupation the Mahrattas did not attempt to establish any settled form of administration, and their rule was confined to a periodic harrying of the country by their cavalry who extorted what they could from the people. Few Muslims and no Mahrattas remained to make Orissa the country of their adoption. The British occupation of Orissa was immediately followed by the submission of ten of the seventeen Orissa Tributary Mahals, the southern Garhjat States in which Oriya influence predominated. The remnants of the Mahrattas were pursued into the hills and defeated in Daspalla. The remaining chiefs of the Garhjats then gradually came to terms and entered into treaty engagements with the British Government. At no time since the three districts of Cuttack, Puri and Balasore came under British rule have they parted company. At first the "province" of Orissa was administered by two Commissioners. In 1828 it was split up into the three regulation districts of Cuttack, Puri and Balasore, and the non-regulation Tributary States, and then came to be administered from Calcutta jointly with Bengal. Until the formation of the province

of Bihar and Orissa in 1912 the Oriya portions of the Midnapore district were under the same administration as the adjoining Orissa districts.

8. *Sambalpur ceded at the same time, but direct administration not assumed till 1849.*—The Sambalpur district was ceded to the British by the same treaty of Deogan under which the Bhonslas of Nagpur had ceded the sea-board districts of Orissa proper, but it was not at once taken under the British administration. Sambalpur never fell to the Moguls when they annexed the sea-board of Orissa. For many years it remained under the rule of Rajput kings who with others of like position to themselves formed a cluster of independent and unruly states in that wild country. But Sambalpur lay across one of the highways from Central India to the east, and for that reason received in full measure the attentions of the Mahrattas who temporarily ousted the Rajput rulers, and then, as mentioned above, ceded the district to the British by the treaty of Deogan. The British, however, did not retain Sambalpur; they restored it to Raghuji Bhonsla, and there followed prolonged hostilities between the Rajput kings of Sambalpur and the Mahratta marauders. In 1826 the Mahrattas finally ceded Sambalpur to the British, who at first attempted to maintain the old line of Rajput rulers on the throne. It was not till 1849 that the administration of Sambalpur was finally taken over by the British on the death of the last Raja without male issue. The point then that deserves to be stressed is that, though the same treaty of Deogan ceded to the British both Sambalpur and the Orissa sea-board (separated from Sambalpur by numerous Feudatory States which retained the character it lost), at no recent time had there been any direct administrative contact between the two, other than that each was equally plundered by the Mahrattas, who in Orissa proper displaced the Moguls, while in Sambalpur with varying success they contested the fortunes of war with an ancient line of Rajput rulers.

Sambalpur was first administered as a part of the South-West Frontier Agency, directed from the headquarters at Ranchi in Chota-Nagpur. There was continuous trouble from 1857 for some years with a pretender to the *raj*, and in 1860 the district was temporarily transferred to the Orissa division of the Government of Bengal owing to the difficulty of its access from the North. In 1862 it was made over to the newly-constituted Central Provinces. Reference will subsequently be made to later changes in the administration of Sambalpur. It is intended at this stage to give only so much of the history of that district as may explain why it was from the first administered separately from the sea-board of Orissa. The South-West Frontier Agency, in which Sambalpur was first included, had been formed in 1833 after the suppression of the Kol rebellion, and at first comprised the greater part of what is now the Chota Nagpur division, followed later by Sambalpur and other tributary States. Apart from Sambalpur, British officers of the Agency came into contact with Oriya-speaking peoples in parts of Singhbhum and in some of the neighbouring States.

9. *The Northern Circars, including Ganjam and Vizagapatam, ceded by the Emperor Shah Alam in 1765.*—The fact that the numerous Oriyas who form part of the population of the northern half of the Ganjam district in the Presidency of Madras are administratively separated from the Oriyas of the sea-board to the north is perhaps a matter of greater concern to the promoters of a united Orissa than the separation of any other individual tract in which Oriya is spoken. Ganjam is known to have formed part of the ancient Kalinga which included Orissa proper; but Ganjam had been severed from Orissa of the Oriyas many years before the British came into touch with that district. In the 15th century the Gajapatis of Orissa still ruled in Ganjam; but in the second half of the 16th century, about the time when Man Singh annexed Orissa proper to the Mogul Empire, they were ousted by the Kutbshahi dynasty of Golconda; and for nearly two hundred years Ganjam was ruled from Chicacole by Muslims. The Moguls had annexed Puri, Cuttack and Balasore in 1592, but it was not till 1687 that the Mogul Emperor Aurangzeb compelled Golconda to acknowledge his authority, and only from that date were the governors of Chicacole, who ruled Ganjam, appointed by the Emperor's Subahdars of the Deccan. The Mahrattas, who ceded Orissa to the British, never ruled in Ganjam. The Chicacole Circar, one of the five Northern Circars, was given to the French in 1753 by the Moguls. The French general De Bussy was occupied with the siege of Madras, when Clive despatched Colonel Forde to the south with a force from Bengal. Forde defeated De Bussy's successor, and captured the French headquarters at Masulipatam in 1759. The Subahdar of the Deccan thereupon changed sides, and made a treaty with Forde agreeing to prevent the French from settling in those parts again. By this agreement, ratified by a *firman* from the Emperor Shah Alam in 1765 and a second treaty with the Subahdar in 1766, the whole of the Northern Circars were ceded to the British at Madras. Thus Ganjam was ceded to the British by the Moguls more than thirty years before the "province" of Orissa was ceded to them by the Mahrattas in 1803.

Vizagapatam, parts of which also are claimed by the Unionists of Orissa, equally formed part of the Northern Circars, and was ceded to the British jointly with Ganjam.

Ganjam and Vizagapatam have since remained together under the same administration, namely that of Madras.

10. *The Oriya-speaking tracts of the Midnapore district.*—There remain only the Oriya-speaking portions of the Midnapore district. Under the rule of the Afghans, Midnapore was included under the same administration as Orissa. The Moguls appear to have been the first to separate that district and Balasore from Cuttack and Puri and administer them from Bengal. Under British rule Balasore was again united with the essentially Oriya districts to the south, and Midnapore remained separate from the Orissa division, but, until 1912, under the same administration. It is a portion only of the Midnapore district which the Oriyas claim.

11. *The distribution of the Oriya-speaking tracts between the Governments of Bengal, the Central Provinces and Madras.*—These briefly were the circumstances in which the various Oriya-speaking tracts passed under the British administration. The position was early reached that—

- (1) the districts of Cuttack, Puri, and Balasore, together with the Orissa Tributary Mahals (including Angul), formed the Orissa division under the Government of Bengal,
- (2) the Midnapore district formed part of the Burdwan Division under the Government of Bengal,
- (3) the Singhbhum district and the adjoining Feudatory States formed part of the Chota Nagpur division under the Government of Bengal,
- (4) the Sambalpur district and the adjoining Feudatory States were administered by the Government of the Central Provinces,
- (5) the Ganjam and Vizagapatam districts and their Agency tracts were administered by the Government of Madras.

12. *Sir Stafford Northcote suggests the separation of Orissa from Bengal, 1868.*—The first suggestion for a regrouping of territory affecting the Oriyas was made in 1868 by Sir Stafford Northcote. In 1866 Orissa had been visited by a severe famine and Sir Stafford Northcote cited this to indicate the greatly augmented demands that the outlying portions of Bengal made on the time and labour of those concerned in the government of the province. To relieve an overtasked administration he suggested the separation from Bengal of Assam, and possibly of Orissa also. The province of Assam was constituted in 1874; it was decided that Orissa should remain with Bengal.

13. *The Government of India propose the union of all the Oriya-speaking tracts within the province of Bengal, 1903.*—The whole question of the administrative treatment of the Oriya-speaking peoples came before the Government of India as a definite issue in 1903, in Lord Curzon's time, when the re-arrangement of provincial boundaries was being examined at length. A scheme was prepared by which the Government of India sought to attain three objects—

- (1) to relieve the Government of Bengal of part of the excessive burden imposed on it and at the same time to make provision for the more efficient administration of some of the outlying districts of the province;
- (2) to promote the development of Assam by enlarging its jurisdiction so as to give it an outlet to the sea, and, thirdly;
- (3) to unite under a single administration the scattered sections of the Oriya-speaking population, and thereby to afford both to Madras and the Central Provinces some relief

from the difficulties arising from the great diversity of languages spoken in their existing jurisdictions.

The Government of India communicated their scheme to the Government of Bengal in Sir Herbert (then Mr.) Risley's letter No. 3678, dated the 3rd December 1903, the Governments of Madras and of the Central Provinces being addressed at the same time. This letter of the 3rd December 1903 addressed by the Government of India to the Government of Bengal is frequently quoted by leaders of the Oriya movement, and a copy is attached in Appendix III to this memorandum. The case of Orissa is discussed in paragraphs 10 to 15 of the letter. The Government of India recognised the Oriya-speaking group of peoples as a distinct and unmistakable factor, with an identity and interests of its own. After discussing the various arguments for and against a redistribution of the Oriya-speaking tracts the Government of India stated that they were disposed—

“ —to unite the whole of the Oriya-speaking peoples, both hill and plain, under one administration and to make that administration Bengal. In other words, they would add to Orissa the Oriya-speaking tracts of Sambalpur (615,941 Oriya-speaking people out of a total population of 829,698), and its Feudatory States; the Ganjam district (with the possible exception of one taluk in which Oriya is said not to be a prevalent language); and the Ganjam and Vizagapatam Agency tracts. Such a scheme would solve the question of language once and for all. This change would relieve both the Central Provinces and Madras of a troublesome excrescence upon their administrative system; and it would result in handing over the Oriya problem to one Government alone, on a scale and with a unity that would admit of its being treated with consistency and efficiency.”

The Governments of Bengal and of the Central Provinces both agreed to the suggestion that the Sambalpur district (with the exception of the Chandarpur-Padampur estates and the Phuljhar Zemindari) and the five Oriya-speaking Feudatory States of Patna, Kalahandi, Sonpur, Bamra and Rairakhol should be transferred from the Central Provinces to Bengal, five Hindi-speaking States being transferred at the same time from Bengal to the Central Provinces. The Government of Madras, however, objected to making over to Bengal the Ganjam district and the Ganjam and Vizagapatam Agency tracts; they considered that, owing to the mixture of races, the transfer would give rise to serious difficulties connected with the linguistic and racial conditions and the geographical formation of the tract in question, that the judicial arrangements of those territories would be greatly complicated and confused by their transfer to Bengal, and that the administration of their peculiar land revenue system would be placed in the hands of officers who would have no acquaintance with the principles on which it is based

or with the language on which the bulk of its records are, and must continue to be maintained.

14. *The Sambalpur district added to the Orissa division of the province of Bengal, 1905; Ganjam and Vizagapatam remain in the Madras Presidency.*—The objections of the Government of Madras were upheld; the Oriya-speaking tracts of the Madras Presidency were left undisturbed. Effect was, however, given to the remainder of the Government of India's scheme. The proclamation of the 1st September 1905 attaching Sambalpur less the Chandarpur-Padampur estates and the Phuljhar Zemindari issued on the same date as the proclamation forming the new province of Eastern Bengal and Assam, and the transfer of the Oriya-speaking estates was carried out at the same time.

These changes fell short of the desire of the Government of India to unite all the Oriya-speaking peoples under the then Government of Bengal; but the transfer of Sambalpur marked an important stage in the amalgamation of these peoples. Owing to the administrative disadvantages of a multiplicity of languages in a province, the Government of India had in 1895 substituted Hindi for Oriya as the court-language of the Sambalpur district. In 1902, at the instance of Sir Andrew Fraser, they reversed that decision and restored Oriya in place of Hindi. By the changes of 1905 the district passed into the Orissa division of the Government of Bengal.

15. *The new Province of Bihar and Orissa constituted on the 1st August 1912.*—Six years later the Government of India addressed the Secretary of State in their despatch, dated the 25th August 1911, and submitted recommendations on the subject of transferring the seat of Government from Calcutta to Delhi, of reuniting the five Bengali-speaking divisions in a Presidency to be administered by a Governor in Council, and of creating a new province to consist of Bihar, Chota Nagpur and Orissa under the administration of a Lieutenant-Governor in Council. In Appendix IV to this memorandum a copy is given of paragraphs 11 and 20 of that despatch. On the subject of the Oriyas, the Government of India expressed themselves as follows:—

“ The Oriyas like the Biharis have little in common with the Bengalis, and we propose to leave Orissa, and the Sambalpur district, with Bihar and Chota Nagpur. We believe that this arrangement will well accord with popular sentiment in Orissa, and will be welcome to Bihar as presenting a sea-board to that province.”

When these suggestions were being debated in the House of Lords on the 21st February 1912 they were subjected to severe criticism by Lord Curzon who was opposed to the decision to go back on what was described as the partition of Bengal which he had himself inspired. Lord Curzon expressed himself strongly on the treatment of Orissa, and his words, which are quoted below, have

frequently been used by Oriya leaders in support of their case. Lord Curzon spoke as follows:—

“ A word about the new province of Bihar, Chota Nagpur and Orissa. This province is made up of the non-Bengali leavings on the west of your new Bengal, and it is justified in your despatch on these grounds. The Government of India say that the Biharis do not like the Bengalis and would welcome separation. Very likely that is true. They say that it is in accordance with popular sentiment in Orissa, which certainly it is not, and will be welcomed in Bihar as giving Bihar a seaport. Of course, that is absolute nonsense. Calcutta is and always must remain the seaport of Bihar to which it is linked by two railways..... This province of yours has been drawn up without the slightest regard to the interests or views of the inhabitants, and you violate there every principle you have adopted in respect of Bengal. *Take the Orissans. No one has paused to think what they want. You could not know because of your secrecy, and because you consulted no one in advance. They want the reunion of the Oriya-speaking people. They want to remain under Calcutta to which they have been attached so long..... If the Orissans were an agitating people, which they are not, they would soon make their protest heard.*”

In reply Lord Crewe expressed some surprise at Lord Curzon's statement that the people of Orissa would have preferred to be administered from Calcutta; he did not refer to the desire of the Oriya-speaking peoples to be united under a single administration.

The new province of Bihar and Orissa came into being on the 1st August 1912. The comparatively few Oriya-speaking people of the district of Midnapore remained under the Government of Bengal.

In paragraph 41 the joint authors of the Report on Indian Constitutional Reforms made the following comment on this territorial redistribution:—

“ The attachment of Orissa to the rest of the province was dictated by the need of providing for areas which the new presidency could not absorb, rather than by considerations of convenience or economy.”

16. *Memorials of Oriya residents of Ganjam for inclusion in the new province rejected by the Government of India.*—In the meantime, the movement among the Oriyas for the amalgamation of all the Oriya-speaking peoples had been growing in strength. Their claims were consistently pressed by the Utkal Union Conference which had been formed in 1903 and met annually. At the time when the province of Bihar and Orissa was being formed, memorials were submitted to His Excellency the Viceroy by Oriya inhabitants of Ganjam and Vizagapatam asking that “ His Excellency in Coun-

cil should be pleased to unite the Oriya-speaking tracts of Madras with Orissa by placing them under the new province of Bihar, Chota Nagpur and Orissa, a measure which will remove the long-standing genuine grievances of the Oriya community now placed under different Governments, and earn the ever-lasting gratitude of the vast Oriya-speaking community." In sending on these memorials the Government of Madras adhered to the objections which they had expressed in 1904, and which had been accepted by the Government of India. In reply to their request the memorialists were informed in 1912 that the Governor General in Council was unable to regard the transfer of the Oriya-speaking tracts of the Madras Presidency as desirable or necessary.

III.

17. *Address presented to the Viceroy and the Secretary of State by the Utkal Union Conference in 1917.*—Mention has already been made of an address presented to His Excellency the Viceroy and to the Secretary of State in November 1917 by representatives of the Utkal Union Conference, a copy of the address being attached in Appendix II to this memorandum. In 1912 the Oriyas of Ganjam had asked to be placed under the administration of the new province of Bihar and Orissa, and stated that this would satisfy their desires. The leading Oriya gentlemen, who addressed Lord Chelmsford and the late Mr. Montagu, proceeded a step further and voiced the claims of the Oriyas in the following terms—

- (1) that the Oriya-speaking tracts (which the memorialists defined) should be brought together under one separate administration of the type which Bihar and Orissa now has, or
- (2) that, if it be not feasible in the present circumstances to organize a separate administration for the Oriya-speaking tracts, the proposed united Orissa be placed under the Government of Bihar and Orissa for the present with a view that it may, at a future time, develop into a separate administration.

In addition, the memorialists asked that, if the Oriya-speaking tracts were included in the province of Bihar and Orissa, they should be given representation in the legislatures, and on the University of the province, which would ensure to them a status equal to that of Bihar, to which they should not be subordinate. By this request these representatives of the Utkal Union Conference made clear the object which they, as Oriyas, had before them. Their object was to obtain for the Oriya-speaking tracts a separate administration of their own: if that could not be obtained at once, they wanted amalgamation under the Government of Bihar and Orissa as a step in the direction of obtaining a completely separate Oriya administration in the future.

18. *The comment made in paragraph 246 of the Report on Indian Constitutional Reforms.*—The special mention of Orissa in

paragraph 246 of the Report on Indian Constitutional Reforms indicates that the joint authors were impressed by the claims to amalgamation made to them by the Oriya representatives. It will be remembered that, in that paragraph of their report, the joint authors declined, to use their own words, "to unite the sufficiently difficult task of revising the constitution of India with the highly controversial labour of simultaneously revising the political geography of the entire country". After expressing their general opinion that in their belief the business of government would be simplified if administrative units were smaller and more homogeneous, the joint authors added—

"We believe emphatically that redistributions of provincial areas cannot be imposed upon the people by official action; and that such a process ought, in any case, to follow, and neither to precede nor accompany constitutional reform. But we are bound to indicate our own clear opinion that, wherever such redistributions are necessary and can be effected by process of consent, the attempt to do so should be made; and therefore we desire that it should be recognised as one of the earliest duties incumbent upon all the reformed Provincial Governments to test provincial opinion upon schemes directed to this end. In Orissa and Berar, at all events, it seems to us that the possibility of instituting sub-provinces need not be excluded from consideration at a very early date."

The spokesmen of the Oriya movement had adopted a separate Orissa province as their objective; short of that objective, but only as a means to the same end, they wanted the temporary amalgamation of all the Oriya-speaking tracts under the Government of Bihar and Orissa. The remedy suggested by the joint authors as a possible solution, but one upon which provincial opinion should be tested, was that the Oriya-speaking tracts might be administered as a sub-province.

19. *Mr. Sinha's resolution moved in the old Imperial Legislative Council on the 20th February 1920.*—The whole question of the future treatment of Orissa was shortly afterwards raised in the old Imperial Legislative Council on a resolution moved by the Hon'ble Mr. Sachchidananda Sinha on the 20th February 1920 to the effect that—

"—a mixed committee of non-officials and officials be appointed to formulate a scheme for the amalgamation of the Oriya-speaking tracts at present administered or controlled by the Governments of Madras, Bengal and the Central Provinces with the existing Orissa division of the province of Bihar and Orissa."

When moving his resolution Mr. Sinha, himself a Bihar representative on the Council, explained that he was doing so in response

to a request made to him personally by the Utkal Union Conference. He stated that the people of Bihar had no objection either to the amalgamation of the Oriyas under one administration, or, if need be, to the separation of the Oriya tracts from Bihar and their formation into a separate province; in his resolution he recommended amalgamation under the province of Bihar and Orissa, because that was the most simple scheme to start upon and the more likely to be accepted by Government. He therefore suggested the appointment by Government of a mixed committee to investigate the problem. No special reference was made to the possibility of forming a sub-province.

The resolution received considerable support in the house and among those who spoke in favour of it was the late Sir Surendra Nath Banerjea. Sir B. N. (then Mr.) Sarma, a representative from the Madras Presidency, was more critical. He stated that if the mover had asked for a separate province for the Oriyas, he would gladly have supported him, though in his opinion a resolution to that effect would have been premature, since it was a matter for the reformed Councils, or rather for the Oriya representatives in the reformed Councils of the four provinces to say what form of Government they required. On the other hand, he did not think that the amalgamation of all Oriya-speaking tracts under the Government of Bihar and Orissa was likely to benefit the Oriyas. The great majority of the Oriya-speaking peoples were already under that government: the addition of one or two millions of Oriyas would not materially affect their position in the province, since they would still remain in a minority. Mr. Sarma took exception to a statement made by the mover that the Chicacole taluk was the only Telugu-speaking taluk in the Ganjam district, and considered that the Oriyas of the Madras Presidency were as well looked after by the Government of Madras as the Oriyas of Bihar and Orissa by the Government of that province. On these grounds, though he favoured a linguistic redistribution of provinces, Mr. Sarma withheld his support from the resolution before the House.

Speaking on behalf of the Government of India, the Home Member quoted the observations of the Joint Select Committee of Parliament on clause 15 of the Government of India Bill to the effect that no change in the boundaries of any province should be made without due consideration of the views of the Legislative Council of that province, and stated that it was an essential feature of the scheme of reforms that territorial redistributions should be postponed until the reformed Councils came into being. He cited opinions expressed by Sir Gangadhar Chitnavis and Mr. Sastri on a resolution moved on the 6th February 1918 by Sir B. N. Sarma, that the linguistic test was not the sole consideration; political, historical and commercial connections had to be taken into account. Though the Government of India sympathised with the aspirations of the Oriyas, they must await expressions of opinion by the provincial Legislative Councils before they could consider the appointment of a committee to investigate the problem: Government were

unable, therefore, to accept the resolution. However, in concluding his speech Sir William Vincent gave the Council the following assurance—

“ I am quite prepared, however, if I can secure the sanction of His Excellency in Council to this course, to have a full investigation of the facts to ascertain the views of the local Governments, and prepare such materials for the use of the new Governments as may assist them in arriving at a just decision in this matter.”

On receiving this assurance Mr. Sinha withdrew his resolution : and it is from this assurance that the subsequent official discussions initiated by the Government of India of the complex and difficult problems of the amalgamation of the Oriya-speaking peoples derive. The attention of the Governments of Madras, Bihar and Orissa, Bengal and the Central Provinces was drawn to the debate; they were asked to ascertain the wishes of the people affected by the proposal, to investigate the problems raised, and to express their views. It is not intended to burden this memorandum with a complete statement of the information collected as a result of this reference. The salient points in the replies of the provincial Governments, which were received in the course of the year 1922, are briefly summarized in the succeeding paragraphs.

20. *The views expressed by the Government of Madras in 1922.*—The Government of Madras reported that they had received a number of communications from the Telugu inhabitants of the Ganjam district protesting against the transfer of territory from that district; on the other hand the majority of the Oriya residents in the Madras Presidency, who were capable of expressing their wishes, desired to be included under a separate administration. A notable exception was the Raja of Jeypore, whose estate covered practically all the Oriya-speaking tracts outside the Ganjam district, and who was decidedly opposed to the separation of the whole or any part of his estate from the Madras Presidency with which the estate and his family had been connected ever since the British assumed control.

The attention of the Government of India was drawn by the Government of Madras to a resolution, moved by an Oriya member in the Madras Legislative Council on the 15th December 1921, recommending the appointment of a committee of officials and non-officials to advise the Government of Madras on the reply to be given to the Government of India on the subject of amalgamating the Oriya-speaking tracts under one administration. The mover stated that his main object was to stimulate discussion, and he withdrew his resolution on a promise given by the Home Member that the information collected would be published for criticism.

The Government of Madras stated that in the meantime they reserved their opinion. Subsequently they reported that though five months had elapsed since they had published the information which they had collected, no criticism of any kind had

by the Government. This fact in itself appeared to the Governor-in-Council to be strong evidence of the absence of any general desire on the part of the Oriyas of the Madras Presidency for amalgamation with other areas in which the Oriya language is spoken. The Government of Madras then referred to certain administrative objections, for instance the distribution of other languages within the Oriya-speaking tracts of the Madras Presidency; the intimate relation between the forest areas and the rivers of the plains; and the absence of communications to the east and north. Lastly there appeared to the Government of Madras to be strong financial objections to forming a province consisting only of the Oriya-speaking tracts; they stated that the cost of the administration of the Agency tracts amounted annually to a sum of about Rs. 30 lakhs, of which only a small part was met by revenue from that area.

The Government of Madras then expressed the opinion that they did not consider that it would be to the advantage of the country as a whole to transfer the Oriya-speaking tracts of the Madras Presidency either to an Oriya province or sub-province or to the province of Bihar and Orissa. They did not consider that a commission of enquiry to go into the whole question would justify the expenditure which would be involved.

In expressing this view the Government of Madras are seen to have adhered to the objections which they had successfully pressed in 1905 to the transfer of any territory from the Madras Presidency with a view to the amalgamation of the Oriya-speaking tracts.

21. *The views expressed by the Government of Bihar and Orissa in 1922.*—The question of amalgamating the Oriya-speaking tracts had been discussed in the Bihar and Orissa Legislative Council on the 25th November 1921, and in reply to the reference made to them by the Government of India, the Government of Bihar and Orissa submitted a copy of the debate. The resolution, which was moved by an Oriya member, was in the following terms:—

“This Council recommends to His Excellency the Governor-in-Council that he may be pleased to recommend to the Government of India and to the Secretary of State that the Oriya-speaking tracts existing under the four provincial Governments, namely, Bihar and Orissa, Madras, Bengal and the Central Provinces, be united under one Government.”

The mover was able to speak English, but obtained the permission of the President to move his resolution in the Oriya language. He was followed by Sir Havilland (then Mr.) Le Mesurier who intervened at an early stage in the debate to explain the attitude of the Government of Bihar and Orissa. He said that Government had no difficulty in accepting the spirit of the resolution since they were aware of the very wide-spread and deep-seated feeling among the Oriyas in favour of amalgamation. Unfortunately there were differences of opinion among the supporters of the movement, some asked for a separate province of their own; others that the Oriya-

speaking tracts should be amalgamated under one Government.. Taking the second suggestion first, Government could not but be conscious that there were considerable administrative difficulties in adding all Oriya-speaking tracts to the province of Bihar and Orissa, which would be involved in a further multiplication of land revenue and tenancy systems foreign to the province in which there were already no less than six tenancy laws. Where Oriya-speaking and Telugu-speaking peoples were intermingled, there would follow further language difficulties; and financial considerations would also require to be taken into account. If, however, they were satisfied that there was a strong wish on the part, for instance, of the inhabitants of the Ganjam district to be united with the province of Bihar and Orissa, the local Government would be prepared subject to the opinion and advice of the Council to do their best to meet the difficulties involved. The first matter to be decided was whether in fact the outlying tracts did wish to be united with the Oriya-speaking tracts now comprised in the province of Bihar and Orissa. The question of forming a separate Oriya province had not been considered by the local Government, and until Oriya opinion outside the province had been ascertained, the matter could scarcely be said to arise for consideration.

The resolution was supported not only by Oriya members, but by a number of members of the Council elected by Bihar constituencies who, however, made it clear that while they realised that in course of time a united Orissa might claim separation from Bihar, they could only contemplate with grave misgiving the possible financial effect of such separation both on Orissa and on the rest of the existing province. The mover declined to accept an amendment to the effect that the Oriya-speaking tracts should be amalgamated under the Government of Bihar and Orissa; and in concluding the debate, when he spoke in English, stated that what the Oriyas wanted was amalgamation: the manner in which such amalgamation should be reached was a question to be decided by a committee to be appointed for the purpose. The resolution was adopted without a division.

The Government of Bihar and Orissa also informed the Government of India of the results of the enquiries they had themselves made to ascertain the wishes of Oriyas living within the province of Bihar and Orissa. They found that within the Orissa division educated opinion was strongly in favour of the reunion of the Oriya-speaking tracts under one administration; Hindu and Christian opinion was practically unanimous on the subject, while Muslim opinion was somewhat adverse; the Muslims, however, formed only a small section of the people of Orissa. The local Government were not in a position to express any opinion as to the manner in which the matter was viewed by Oriyas outside their jurisdiction; they could not therefore express any useful opinion on the subject of amalgamation. They suggested that after complete material had been collected, it should be forwarded to the local Government for a final expression of their opinion after consultation with their

Legislative Council: they contemplated that a committee might be required to make recommendations as to the best way in which to overcome administrative difficulties. With reference to the claims made by the Oriyas that the Singhbhum district of the Chota Nagpur division should be treated as an Oriya-speaking district, the Governor in Council stated that, while there was no strong reason for uniting Singhbhum with Orissa, there were definite reasons against it, and he believed that the project would be entirely contrary to the wishes of the great majority of the inhabitants.

22. *The views expressed by the Government of the Central Provinces in 1922.*—The Government of the Central Provinces reported that in the Padampur estate of the Bilaspur district, where the number of Oriya-speakers is 76 per cent. of the total population, and in the Chandarpur estate of the same district, where their proportion is only 3·6 per cent., there was no general demand for amalgamation with Orissa or for separation from the Central Provinces; the Oriya tracts in the Bilaspur district suffered from no serious disability; Oriya is taught in all the schools, with Hindi as an optional subject in the two higher classes. In the Phuljhar zemindari estate of the Raipur district the Government of the Central Provinces found that though there was a considerable body of Oriya opinion in favour of the transfer of the estate to Orissa, it was largely the outcome of the recent Oriya agitation; if the zemindari were to be transferred, the remaining half of the population would suffer from the same disabilities of which the Oriyas complained: on the other hand, the Governor in Council considered that there was a *prima facie* case for transferring the Khariar zemindari estate of the same district in which the Oriya population amounted to 77 per cent. of the whole and filled a compact area. (From this expression of opinion the Government of the Central Provinces subsequently resiled.) On the general question of the amalgamation of the Oriya-speaking peoples, the Government of the Central Provinces expressed the view that the proposal required full consideration by the reformed Councils, and that no definite steps should be taken until the whole matter had been fully ventilated.

23. *The views expressed by the Government of Bengal in 1922.*—The Government of Bengal was interested only to the extent of the Oriya-speaking portions of the Midnapore district and reported that these tracts were very irregularly spread over six police stations in which the language spoken was a mixture of Bengali and Oriya, and differed considerably from the language of Orissa. The inhabitants, owing to their long residence in Bengal, differed in their manners and customs from the inhabitants of Orissa proper, and had no desire to be separated from Bengal. The Government of Bengal observed that the census figures of the Oriya-speaking peoples in the Midnapore district could not be accepted as entirely reliable. The district magistrate had noted that the irregularity in their distribution might be due to the influence of individual

supervisors and enumerators, and stated that, when it became known that the census statistics of 1921 might be used as an argument for the transfer of portions of the district, the Oriya inhabitants in some places, having no wish to go over to Orissa, seemed to have returned their language as Bengali.

24. *The Philip-Duff Enquiry Report, 1924.*—After an examination of the material which had been collected, the Government of India decided that further steps should be taken to ascertain precisely the attitude of the Oriya-speaking peoples resident in the Madras Presidency. They felt that the absence of criticism of the information collected and published by the Government of Madras was not conclusive evidence that there was no genuine desire for amalgamation on the part of the Oriyas in that Presidency. It was, therefore, arranged that local enquiries should be made by two officers, one to be appointed by the Government of India, the other to be appointed by the Government of Madras. The Government of India undertook to meet the expense of this enquiry, and the budget provision made in the estimates for 1924-25 was voted by the Assembly. The officers selected for the enquiry were Mr. C. L. Philip, I.C.S., nominated by the Government of India, and Mr. A. C. Duff, I.C.S., nominated by the Government of Madras. The instructions which they were given were comprised in a Resolution of the Government of India, No. F.-669, dated the 1st October 1924, and were to the effect that they should “make detailed enquiry on the spot regarding the attitude of Oriya inhabitants of the Madras Presidency towards the question of the amalgamation of the tracts inhabited by them with Orissa”. Their enquiry was begun in October and completed in December 1924. In paragraph 12 of their report, which is attached as Appendix V to this memorandum, these two officers stated their conclusions in the following words:—

“Our enquiry has shewn that there is a genuine long-standing and deep-seated desire on the part of the educated Oriya classes of the Oriya-speaking tracts of Madras for amalgamation of these tracts with Orissa under one administration. By many we have been informed that it is immaterial whether that administration be Bihar and Orissa, Bengal, or Madras; on the other hand, there is a distinct tendency on the part of some to regard amalgamation as a preliminary to the formation of a separate Orissa.”

They added—

“It seems doubtful whether the masses have had knowledge of the question for any length of time, and it is probable that the enthusiasm, which manifested itself in many of the villages we passed through, was the result of propaganda started just before our arrival by the Vizagapatam and Ganjam Amalgamation Committee which, through local branches and volunteers, organized demonstrations and collected signatures throughout the country to petitions for amalgamation. But however that may be, it

is unquestionable that wherever the Oriya raiyats have learned something of the matter, they are entirely in favour of amalgamation."

25. *The comments of the Government of Madras on the report.*—On the publication of the Philip-Duff Enquiry Report the Government of Madras were again asked for an expression of their views. After some preliminary comment on the difficulties inherent in any linguistic redistribution of provinces, the Government of Madras stated that the report prepared by Mr. Philip and Mr. Duff gave the Governor in Council no reason to change the views expressed in 1922.

The case for the Vizagapatam district required to be dealt with separately from that of Ganjam. Practically all the Oriya-speaking population of the Vizagapatam district reside in the Jeypore estate; but the Oriyas are by no means a majority in the population of that estate, and those who do not speak Oriya are either distinctly Telugu or, whatever their language, have no special affinity with the Oriyas. The Maharaja of Jeypore was strongly opposed to any transfer, and the enquiry had not disclosed any intelligent or consistent expression of opinion, even among the Oriya-speaking inhabitants, in favour of amalgamation with the Orissa districts. The condition of the country and of the communications was such that the only natural outlet was towards Vizagapatam. The Governor in Council concluded that in his opinion there was no ground whatever for the transfer of any part of the Vizagapatam district to the province of Bihar and Orissa, and that the effect of any such transfer would be disastrous.

The case for the Ganjam district stood on rather different ground because there were parts of it which might possibly be transferred to Orissa without any very detrimental effect on the population, provided that the area to be transferred was carefully selected and restricted; but the Governor in Council was unable to see that any positive advantages could be gained by such a course. The Government of Madras considered that the value of the enquiry made by Messrs. Philip and Duff was much discounted by what they described as a defect in the terms of reference given to them in that they were required to ascertain the views only of the Oriyas, and not of the other elements in the local population, whose views they were unable to take into account. The Government of Madras stated that the area in which the Oriyas largely predominated was small, and with the possible exception of the part lying between the left bank of the Rushikulya river and the Orissa border was inextricably intermingled with areas predominantly Telugu. The Government of Madras then recounted the following obstacles which in their opinion made the transfer of any portion of the Ganjam district undesirable—

- (a) there is no intimate relationship between the Oriyas of Ganjam and the Oriyas of Orissa. In manners and customs, and even in language both spoken and written, there are considerable differences;

- (b) there is no separate or distinct portion of the district which is peopled entirely by Oriyas. Even in parts of the district where as many as 75 per cent. of the population speak Oriya, Oriya-speaking villages were intermingled with others in which only Telugu is spoken;
- (c) the statistics of language are misleading. Telugu people living in villages more largely populated by Oriyas may be obliged to speak Oriya, but they are not Oriyas and should not be so classified;
- (d) the aboriginal tribes in the Agency tracts of the district have no linguistic or ethnic affinities with the Oriya population;
- (e) the mass of the Oriya population of Ganjam is not sufficiently advanced to be competent to judge where its interests lay.

In paragraph 10 of their report Messrs. Philip and Duff had enumerated certain grievances represented by the Oriyas in the Madras Presidency. The Government of Madras stated that they were taking steps to palliate their disabilities as far as practicable notably with reference to the use of the Oriya language in public offices and the employment of Oriya officials in the public service. They considered that the practical solution of the problem lay in further improving existing conditions, and not in creating fresh difficulties by amalgamation with a population and with an administration with which the Oriyas of the Madras Presidency were unfamiliar. The Governor in Council considered therefore that the balance of advantage was wholly on the side of leaving things as they are, and added that the Madras Ministers fully concurred in that view.

26. *Suggestions made by the Government of India to provide a basis for further discussion.*—As a result of the correspondence with provincial Governments and the local enquiries made by Messrs. Philip and Duff a considerable amount of material had now been collected by the Government of India on the various issues relevant to the problem of the amalgamation of the Oriya-speaking peoples. The next step was to sift the material in order to facilitate progress towards an ultimate decision. One of the difficulties of the case was the absence of unanimity on the part of the Oriyas themselves. It was apparent that some leaders would be satisfied with nothing less than a wholly separate Oriya administration; others would accept amalgamation but only as a step towards a separate province; the mover of the resolution in the Bihar and Orissa Council declined to commit himself to amalgamation with the province of Bihar and Orissa, though that had been the request of the Oriyas of Ganjam in 1912 and was the specific proposal in the resolution moved in the Imperial Legislative Council in 1920 by Mr. Sinha. The Government of India hoped, in these circumstances, to simplify the issues by placing certain definite suggestions before the provincial Governments merely as a basis for further discussion, and to assist towards the formulation of definite conclusions on, at any rate, some

aspects of the problem. The suggestions so made took the following form—

- (a) that the issue immediately under consideration should not be the formation of a separate province, but the amalgamation of the Oriya-speaking tracts of the four provinces of Bihar and Orissa, Madras, the Central Provinces and Bengal within the existing province of Bihar and Orissa;
- (b) proceeding on this assumption the Oriya-speaking tracts in the Bengal Presidency might, in view of the opinions expressed by the Government of Bengal, be left out of consideration;
- (c) similarly of the tracts in the Central Provinces, those situated in the Bilaspur district might be left out of consideration, but the possible transfer of the Phuljhar and Khariar zemindari estates from the Raipur district to the province of Bihar and Orissa should be further examined by the Government of the Central Provinces; and
- (d) of the tracts in the Madras Presidency those in the Vizagapatam district might be left out of consideration, but the possible transfer of ten specified taluks of the Ganjam district should be further examined by the Government of Madras, and the wishes of the Telugu inhabitants in three other taluks in that district ascertained;
- (e) simultaneously, the implications of the possible addition of these particular territories from the Central Provinces and the Madras Presidency should be examined by the Government of Bihar and Orissa.

These suggestions were communicated to the three Governments of Bihar and Orissa, the Central Provinces and Madras, the issues on this occasion being in this manner more precisely defined than on the occasion of the reference previously made to them in 1920.

27. *The views expressed by the Government of the Central Provinces in 1926.*—The Government of the Central Provinces reported that they had no hesitation in supporting the opinions which they had expressed in 1904, and again in 1922, that the Phuljhar zemindari estate, which had formed a part of the original Sambalpur district when that district formed part of the Central Provinces, should not be transferred. The zemindari was bound to the Central Provinces by its land revenue system, and by its trade which remained in the direction of Raipur: with the completion of the Raipur-Vizianagram railway, the interests of the estate would be still more closely connected with the Central Provinces; though the estate contained a population nearly half of which spoke Oriya, it distinctly belonged to the Hindi-speaking tract of Chhattisgarh.

The Governor in Council now found himself unable to accept the view previously expressed that there was a *prima facie* case for the

transfer of the Khariar zemindari estate. He considered that undue weight had been attached to purely linguistic considerations, and preferred to judge the matter on grounds of economic and administrative convenience; in any case the statement that 77 per cent. of the population was shown at the last census as Oriya-speaking required to be qualified by the fact that the Oriya spoken in that estate was gradually melting into Chhatisgarhi Hindi; when the transfer of the Sambalpur district from the Central Provinces to Bengal was under consideration in 1904, it had been pointed out that the hills which separated the Feudatory State of Patna from the Khariar zemindari estate formed a natural boundary, and the separation of the zemindari from the other zemindari estates of the Raipur district of which Khariar was the admitted head had been strongly opposed; the same considerations which made it desirable to retain Phuljhar in the Central Provinces applied equally to Khariar.

With the receipt of this reply it was clear that the Government of the Central Provinces were finally opposed to the further transfer of any Oriya-speaking tracts from the Central Provinces to the province of Bihar and Orissa.

28. *The views expressed by the Government of Madras in 1926.*—In reply to this further reference the Government of Madras adhered very strongly to the objections which it had maintained in 1904, in 1922, and in 1925 to the transfer of any portions of the Madras Presidency. As requested by the Government of India the Government of Madras supplied a statement showing the revenue collected in the Ganjam district with separate figures for the Chicacole taluk, which was almost exclusively Telugu, and for the Parlakimedi, Tekkali and Sompeta taluks, which also had not been included in the ten taluks provisionally suggested as possibly suitable for transfer, together with figures of the local expenditure incurred in the Ganjam district. A copy of this statement is enclosed in Appendix VI to this memorandum. The Government of Madras took the opportunity at the same time to put forward certain financial claims which they would press in the event of the ten taluks being transferred—

- (a) they stated that they had at stake a sum of approximately Rs. 47½ lakhs capital expenditure on the Rushikulya irrigation system on which they paid Rs. 1,57,134 annually to the Government of India on advances included in that outlay;
- (b) they valued their Public Works Department buildings in the ten taluks at approximately Rs. 10 lakhs and claimed reimbursement;
- (c) more than Rs. 4 lakhs had been spent on the Russellkonda Saw Mill, the greater part of which had been met from loan funds on which interest had to be paid. The reimbursement of this capital expenditure was also claimed.

In conclusion, the Government of Madras stated that the views of the Governor in Council were shared by the Hon'ble Ministers, one

of whom, being a native of the Ganjam district and one of its representatives in the Legislative Council, was in a position to speak with special authority.

29. *The views expressed by the Government of Bihar and Orissa in 1926.*—The Government of Bihar and Orissa accepted the conclusion of the Government of the Central Provinces that no area should be transferred from the Central Provinces to Bihar and Orissa. With regard to tracts in the Ganjam district the Government of Bihar and Orissa stated that the administrative difficulties involved could not be accurately foreseen by themselves; the question was not one merely of Oriya sentiment; the balance of power among the communities of Bihar and Orissa would be materially changed; it would add to the power of the Oriya group in the Legislative Council, and would increase the Hindu majority.

On one material aspect of the case the local Government held a decided view that there should be no transfer to the province of territory which did not reasonably pay its own way. They had seen the figures prepared by the Government of Madras and were examining them. In the meantime their attitude was that, on the assumption that the area of the Ganjam district suggested as possibly suitable for transfer were self-supporting, then subject to a detailed examination of the financial consideration and subject to the views of the Bihar and Orissa Legislative Council, the Governor in Council was prepared to agree that the whole of the Ganjam district might suitably be transferred less the Chicacole, Parlakimedi, Tekkali and Sompetta taluks.

30. *Resolution moved in the Assembly on the 8th February 1927 by Pandit Nilakantha Das.*—This was the stage reached in the official correspondence when a resolution was moved in the Legislative Assembly on the 8th February 1927 by Pandit Nilakantha Das representing the Orissa division of the province of Bihar and Orissa. The resolution was in the following terms—

“ That this Assembly recommends to the Governor General in Council to be pleased to take immediate steps to put, or publish the schemes of putting, all Oriya-speaking tracts under one local administration.”

The debate disclosed wide differences of opinion even among those who supported the amalgamation of the Oriya-speaking peoples. The mover stated that nothing less than a separate province of their own would satisfy the Oriyas; if they were merely attached to one local administration the agitation would still continue: if tacked on to any province not their own, he thought it better for Oriyas to be joined to the Central Provinces in which they might exercise greater influence than in Bihar. An amendment was moved by a Bihar member to the effect that the Oriya-speaking tracts should be amalgamated with the Orissa division of Bihar and Orissa. The mover of this amendment did not object to a separate province, but thought that its financial resources might be inadequate. He was followed by a member from the Central

Provinces who considered that if financial objections ruled out a separate province, the Oriya-speaking tracts should be attached to Bengal. An Oriya member, who took part in the debate, foresaw difficulties in the formation either of a province or of a sub-province, and suggested the union of all Oriya-speaking tracts, including portions of the Singhbhum district under a Commissioner of Orissa under the Government of Bihar and Orissa. A Madras member claimed that amalgamation should be with Madras, and a member from Bengal claimed that the Oriyas are more akin to Bengalis than to Biharis. A member from the Central Provinces stated that he had no objection to the amalgamation of the Oriya-speaking tracts, but they should not include the Phuljhar and Khariar zemin-dari estates of the Central Provinces. A Muslim member of the United Provinces stated that he was authorized to speak on behalf of the Bihar Provincial Muslim League which was opposed to the amalgamation of all the Oriya-speaking tracts with Bihar.

The Home Member, who had recently visited Orissa, informed the House that enquiries were still being pursued on the official side, and that the Governments both of the Central Provinces and of the Madras Presidency objected to any transfer of territories under their jurisdiction, while the Government of Bihar and Orissa wished to be assured that any territories which might be transferred to them should be financially solvent. He stated that, as a matter of practical politics, he thought that they must reject for the moment any idea of a separate administration for Orissa, and the question really to be decided was what could be done in the way of smaller modifications. He commented on the differences of opinion disclosed in the debate, and stated that when Government had to choose between the numerous conflicting views on the fate of Orissa, it should be after the consideration of discussions in the local Legislative Councils. It was only when replying to the debate that the mover had made it clear that, even if that object could not be at once attained, his real demand was that Orissa should be constituted into a separate administration. In the meantime the transfer of particular Oriya-speaking tracts must necessarily be a matter largely of administrative and financial convenience. He expressed his sympathy with the aspirations of the Oriyas, and stated that he felt that the present position was not altogether satisfactory. Speaking personally, and not on behalf of the Government of India, he stated that if financial investigation showed that territories could be conveniently transferred, he would himself be in favour of such transfer, the province to which the transfer should be made being decided by administrative reasons.

An Oriya member then suggested that Government might appoint a small committee consisting of official and non-official members to examine the financial aspects of amalgamation. The Home Member was unable to accept this suggestion, but said that a copy of the debate would be forwarded to the local Government, that is to say, the Government of Bihar and Orissa, in order that the suggestion might be considered by them.

The resolution and the amendment were both withdrawn.

31. *The Government of Bihar and Orissa report the results of their financial enquiries.*—Shortly afterwards the Government of Bihar and Orissa forwarded, for the information of the Government of India, a copy of a note on the revenue and expenditure of the ten taluks of the Ganjam district suggested as possibly suitable for transfer, prepared by one of their officers who had visited the district with the permission of the Government of Madras. A copy of this note is included in Appendix VII to this memorandum. The Government of Bihar and Orissa commented that the salient facts disclosed were as follows—

- (a) the average annual deficit on these taluks is Rs. 11½ lakhs;
- (b) there are outstanding loans of over half a crore;
- (c) the items of income did not appear capable of any large expansion in the near future;
- (d) like other parts of Orissa the taluks are liable both to flood and to famine;
- (e) several branches of the administration require development.

They added that the income of the present Orissa division was barely sufficient to meet the ordinary recurring charges; the addition of these taluks from Madras would throw a heavy financial burden on the province; without an assignment of revenue from the Government of India of not less than the anticipated deficit on any area transferred, the Governor in Council could not agree to the transfer, nor was it likely that the Legislative Council would agree to a change which would both prejudice the provincial finances and add to the voting strength of an element whose interests would not always be identical with those of the rest of the province.

The Government of Bihar and Orissa commented that there was no likelihood that an increase in the area of the Orissa division would, in itself, satisfy the Oriyas, who would continue to press for complete or partial separation. If therefore the Government of India were to agree to an assignment, it might be calculated on a scale to cover the cost of a partial separation of the Orissa administration so far as the transferred subjects were concerned; it was not, however, worth while to pursue this suggestion until the practicality of the general question of a grant for Orissa from central revenues had received a favourable decision.

32. *The Governments of Bihar and Orissa and of Madras addressed; the next step is left with the provinces.*—The Home Member had stated in the debate in the Legislative Assembly that when Government had to choose between conflicting views as to the fate of Orissa, it should be after it had considered discussions in the local Legislative Councils. With the receipt of the Government of Bihar and Orissa's letter, it was apparent that the Government of India could not carry the case further by official correspondence. The Governments of Bihar and Orissa and of Madras were informed to that effect and it was suggested that they should place themselves in a position to define their own attitude in the event of the

question being locally raised. These two Governments had, however, made different financial claims, one at least of which was made against central revenues. On those claims the Government of India communicated the following general conclusions—

- (a) in the present status of relations between the central and provincial governments, the transfer of certain taluks of the Ganjam district of the Madras Presidency to the province of Bihar and Orissa could in no circumstances be accepted as imposing any new financial liability whatsoever on central revenues;
- (b) such transfer might so affect the general financial position of the province of Bihar and Orissa as to make a revision of the Meston settlement a matter for consideration, but in the view of the Government of India such revision could be based only upon a survey of the whole provincial position, and probably should not be attempted in advance of any arrangements which the Statutory Commission might effect;
- (c) if the Government of Bihar and Orissa were required to take over the liabilities of any area transferred they could not be expected to pay for the assets. Public Works buildings are an important item in the assets, and should, in the opinion of the Government of India, be transferred free of cost;
- (d) the Government of India agreed with the Government of Madras that the Government of Bihar and Orissa would become liable for the capital and interest in respect of money invested by the Government of Madras in irrigation projects in any territory that might be transferred; and
- (e) loans to cultivators in transferred territory should be debited to the Bihar and Orissa Loan Account, and a corresponding credit made to the Government of Madras.

In view of the financial enquiry which they had themselves made, it seemed unlikely that the Government of Bihar and Orissa would wish to appoint a financial committee of the type suggested in the debate in the Legislative Assembly; in accordance, however, with the assurance given by the Home Member the suggestion was brought to their notice.

With the issue of these communications to the Governments of Bihar and Orissa and of Madras, the next step in the more detailed investigation of the problem lies with the provinces. The general considerations which seem likely to govern such an investigation have been described in the introductory note on claims which have been made to redistributions of provincial territories as a racial or linguistic basis separately presented to the Commission.

APPENDIX 1.

LINGUISTIC MAP INDICATING THE DISTRIBUTION OF THE ORIYA-
SPEAKING PEOPLES.

APPENDIX II.

ADDRESS PRESENTED TO HIS EXCELLENCY THE VICEROY AND THE SECRETARY OF STATE BY REPRESENTATIVES OF THE UTKAL UNION CONFERENCE IN 1917.

The Humble Memorial of the undersigned most respectfully sheweth,—

The undersigned memorialists, who are mostly the popular representatives on the Legislative Councils, Local and Imperial, have been authorized by the Utkal Union Conference representing the Oriya-speaking tracts now under Bihar and Orissa, Madras and Central Provinces, at its 12th sitting, to lay the grievances of the Oriyas which they do in the hope that their representation may receive sympathetic consideration.

The Oriyas numbering about eleven millions of His Majesty's loyal subjects inhabiting mainly the Division of Orissa, the Districts of Ganjam and Vizagapatam Agency under Madras, and Singhbhum in Chota Nagpur, approach Your Excellency and accord you, Sir, a cordial welcome to this country in which Orissa has been conspicuously known as the "holy land" of India on this most auspicious occasion of your visit to His Majesty's great Eastern Dominions when the British Empire is engaged in the righteous struggle to punish a brutal enemy whose one object is the destruction of small nationalities like the Belgians.

The past history of the Oriya nation, their architectural fame and their achievements in religion, politics and the language and literature of their country, still mark them out as an ancient race with a genius all their own, the remains of which can still be seen in the temples of Puri and in the Oriya classics of Ganjam.

The Oriyas were under one administrative system under Oriya monarchs who ruled for centuries over a vast tract of country between the sacred rivers, the Godaveri and the Ganges, and founded Puri (Jagannath) as the religious capital of India. Yet nothing in modern times has stirred the heart of the Oriya nation so deeply as their present administrative dismemberment under different local Governments.

The advance of English education among neighbouring races due to facilities given to them at an early stage in British administration in Capital towns and their rise in consequence to positions of influence similar to those of an intermediary ruling race which led to the practice of substituting Oriya by Telugu, Hindi or Bengali, and thereby to deprive the Oriya child of his mother-tongue in certain parts where the school reminds him of the condition of a bird in a cage taught to talk the language of his master, the interposition of an Indian interpreter of a different race when the Oriya suitor seeks justice in a law court to the neglect of the popular vernacular, the advantageous position of education and influence held by the predominant portion of the provincial population which affords them unique opportunities for posts and preferments and representation in the Councils and development of

vested interests, the situation of Oriya tracts at the tail end of each province necessarily kept backward, the indifference of the authorities to the continuous prayers of the Oriyas for their administrative re-union, all these present a striking contrast to the policy pursued by British Government in the administration of the other parts of India.

The occasional expression of sympathy of certain individual officers and the noble yet unsuccessful endeavour, for example, of the Government of Lord Curzon to reunite the Oriyas under one administration, and the recent joining of only a portion of Oriya tract to Bihar for the supposed advantages of an impracticable sea-board to the province, have raised serious doubts in the minds of eleven millions of people with regard to the pronounced policy of the British Government to give equal opportunities to all classes of people to reap the benefits of the British Rule.

The eleven millions of the Oriyas who have just survived dissolution as a nation now look up to Your Excellency and you, Sir, for the satisfactory solution of what they feel to be the life and death problem to them and the glowing picture which you were pleased to draw of a federated India in your memorable speech in Parliament in the Debate on the Mesopotamia Commission has inspired them with fresh hope and renewed confidence that the administrative union of Oriya tracts may be a necessary preliminary to the projected Reform.

For reasons detailed in Appendix B hereto attached the memorialists pray:—

1. That the Oriya-speaking tracts, outlined by Dr. Grierson in his Linguistic Survey of India, Vol. V (a sketch map of which is attached hereto in the Appendix (A)), be brought together under one separate Administration of the type which Bihar and Orissa now has.
2. That if it be not feasible under the present circumstances to organize a separate administration for the Oriya-speaking tracts referred to above, the proposed united Orissa be placed under the Government of Bihar and Orissa for the present with a view that it may at a future time develop into a separate administration. In the latter case, wider representation in the councils, both Local and Imperial, and in the University may be provided in a manner that would admit of the proposed unit Orissa being granted an equal status with Bihar, in order to avoid the risk of the Oriyas being relegated to a subordinate position which has been their lot in the past.

APPENDIX (A) THE MAP IS OMITTED.

APPENDIX (B) TO THE MEMORIAL.

The history of the political ascendancy of the Oriya kings who ruled for centuries over a vast tract between the Ganges and the

Godaveri and shaped the national genius of the people explains the existence of Oriya aristocracy which is such a special feature of Ganjam and Jeypore Agency as the following extracts from Ganjam Manual will show:—

(a) The zemindars of Ganjam, most of whom derived their power and estates from the Gajapati kings of Orissa who granted them their lands on condition of feudal service—many of them appear to have been nominated to their estates by Purushottam Deo who ruled over Orissa in 1479 to 1504 A.D. (page 18).

(b) *The Orissa Kings*.—Kesari line of kings said to have ruled over Orissa for more than six hundred years and doubtless extended their sway over the neighbouring tract of Ganjam (paragraph 2, page 96).

(c) The Gajapati princes (Gangetic dynasty) gave to the country a long line of rulers and their descendants even now occupy considerable territorial possessions in both Orissa and Ganjam. The rajas of Ganjam have moreover always looked upon the kings of Orissa as their chief fountain of honour and at the present day they still acknowledge the Raja of Jagannath or Puri a descendant of the ancient Orissa kings as their chief. The foundation of the town of Ganjam is usually attributed to a member of this family (paragraph 3, page 96).

(d) The dominions of the Orissa kings certainly extended beyond the Kistna river and their power was at its height in 13th, 14th and 15th centuries (paragraph 2, page 97).

(e) Purushottam Deo (a Gangetic king of Orissa) established many of the smaller zemindars in Ganjam whilst others were confirmed by him in their estates upon their presenting themselves before him and tendering him their allegiance in the course of his progress through the country (paragraph 1, page 98).

(f) The Gajapati princes (of Orissa) still, however, continued in power both in the provinces of Chicacole and Rajahmundry until some time later (page 99).

To the same effect are the facts recorded in the Manual of the Administration of the Madras Presidency, 1885, page 151, volume I, page 77, volume II and Stirling's history of Orissa.

The British acquisition of Ganjam District for instance long preceded that of Orissa by some 37 years earlier and the administrative separation of other Orissa tracts is due to similar circumstances. Thus the present distribution of the Oriya-speaking areas over which the people had no control and which have determined the constitution of Provinces and Divisions with absolutely no regard for the feelings and sentiments of the people and their history, ethnology, traditions, their peculiar customs, manners and language.

The reunion of Oriya tracts has been a serious problem both to the Government and the people. The following quotation from paragraph (13), the Government of India's letter no. 3678, dated the 3rd December 1903, to the Government of Bengal explains the

situation:—"The difficulties arising from the Oriya problem thus created has been for years a source of anxiety and trouble to the different provinces concerned". "The Government of Madras have repeatedly complained of the anxieties imposed upon the administration by the great diversity of languages (Oriya, Tamil, Telugu, Malayalam and Canarese) with which Madras civilians are called upon to cope with and which render the transfer of officers from one part of the Presidency to another a matter, in any case, of great difficulty and often of positive detriment to the public interest. These disadvantages exercise an injurious effect not only upon the administration, but still more upon the people. Where the population speaking a distinct language and the area over which it is spoken are too small to constitute a substantial portion of a Province, the foreign unit is almost of necessity neglected. Under ordinary conditions the Government is unable to retain in it a superior staff who have become acquainted with the local language, and with the local customs which invariably accompany it. It is often impossible to officer the subordinate staff from local sources, and foreigners have to be brought in who are ignorant alike of the people, their language and their ways. The Government may order that the Vernacular shall be the language of the officers and course but since neither officers nor clerks know this Vernacular properly, compliance with the order is often impracticable and almost always incomplete. Nowhere are these drawbacks more conspicuous than among the Oriya-speaking people, distributed as has been pointed out, between three administrations and a source of constant anxiety to each. Hence in dealing with a question of this kind, it may be that the true criterion of territorial redistribution should be sought not in race but in language. The Oriya-speaking group in any case emerges as a distinct and unmistakable factor, with an identity and interests of its own".

The Commissioner of Orissa Division made in 1895 a proposal advocating the inclusion of all Oriya-speaking tracts in one division, both on administrative and political grounds, *vide Calcutta Gazette* supplement, dated 23rd October, page 2357. The Oriyas have suffered long under the malign influences in operation in the administrative areas under different local Governments, tending to the destruction of their solidarity as a distinct community; and it is to maintain the identity and to further their special interests that they are exceedingly anxious which was appreciated by Lord Crewe, in his Darbar despatch, 1911:—"Orissa has long felt uneasiness at a possible loss of identity as a distinct community". Though this appreciation, sympathetic as it might be, resulted in nothing better than tying the Orissa Division to Bihar only to "present a seaboard to that Province" and thereby distributing the Oriyas over four different administrations instead of three which was erstwhile their case.

In 1903 a final solution of the problem was attempted by the Government of Lord Curzon in their proposal, *vide* letter no. 3678, dated the 3rd December, to the Government of Bengal, to unite the Oriya tracts under one administration. But the proposal was only

partially carried into effect by the transfer of the Sambalpur District to Orissa from the Central Provinces, owing to the unfortunate absence of Lord Curzon, on leave and the filling up of the Viceroyalty by Lord Amthill, who as the Governor of Madras had opposed the proposed transfer of Madras Oriya tracts to Orissa. This half measure was disappointing to the people and the cry for a united Orissa has been repeatedly made through the resolutions at the periodical sittings of the Utkal Union Conference comprising the representatives from the Oriya-speaking tracts under different administrations. Representations and memorials to local and Supreme Governments and through deputations waiting on the provincial Governors have been made without effect. The same question was moved in the British Parliament in 1912 and elicited the sympathetic reply of the Under Secretary of State for India (Mr. Montagu) to the effect that the proposed transfer of Ganjam to Orissa might be made at any time if "accumulated evidence be forthcoming for the change".

Disabilities and disadvantages mainly responsible for their present backward condition are connected with the following epoch-making facts:—

The Oriya Vernacular, for instance, had struggled long with its Bengali competitor before it could re-establish itself as an officially recognized language in Orissa. A much worse fate had befallen it in the Districts under Madras and Central Provinces Administrations, Telugu and Hindi having been substituted for indigenous Oriya as the medium of instruction and as court language. The Oriyas in Singhbhum are compelled to receive instruction or conduct official business through Hindi or Bengali instead of their own mother-tongue, though Hindi-speaking people there represent only 4 per cent. of the total population. The economic, educational and other disadvantages due to the administrative dismemberment of the Oriyas have all along been the opportunities of the advanced races developing vested interests in the Oriya-speaking districts. All the high posts of trust and responsibility are theirs. They command the majority in all public bodies, local and municipal, Oriyas forming therein only an insignificant minority and that in their own districts.

POPULAR REPRESENTATION.

Owing to their minority and backward condition in each province the Oriyas find themselves at a disadvantage in the matter of representation in Legislative Councils, both local and Imperial. As matters stand at present in the Oriya-speaking tracts outside Orissa Division there is no chance of an Oriya being ever returned by election to the local Legislative Councils. Even in the Orissa Division, they find themselves in a small minority in the Legislative Council of Bihar and Orissa, a condition which might be far improved if the outlying Oriya-speaking tracts be added to Orissa. The present position of all Oriya tracts in this respect is most precarious.

ORIYAS HANDICAPPED AND LOSS OF INDENTITY PROBABLE.

The Oriyas are a distinct race with their own characteristics and ideals. They remain like a foreign unit in Madras, as long as they are forced into an unnatural and unwilling combination with races entirely differing from them in manners and customs, language and literature, history and traditions, psychology and character. They incur the danger of having their national characteristics and aspirations sacrificed to the predominating portion of the Provincial population, they are a minority in each province and are expected to stand against odds in the battle of life.

CHANGE, CONDITIONS AND NEW ARGUMENTS.

In reply to the addresses presented by the Landholders' Association and Oriya Samaj, Ganjam, to His Excellency Lord Pentland during his Ganjam tour, for the administrative union of Oriya tracts with Orissa, His Excellency gave a hope of consideration of the prayer if conditions changed, new and weighty arguments were produced. The present world-wide war is significant for the fact that the British lion is the protector of the weak nationalities.

The dismembered Oriya nation ask for re-union. They take their stand on the hopeful reply of Lord Pentland who meant every word he said to the Oriyas of Ganjam.

Conditions have since been rapidly changing in India. Competition in all advanced provinces is overwhelmingly increasing. The weak and the minor communities must go to the wall in the struggle. Indian and Home Governments have already declared the policy of increasing the association of Indians in the administration towards the goal to self-government. The Oriyas are naturally anxious for their own protection. The benign Government of Madras must reconsider the case of the Oriyas anxious to join Orissa when the latter stands, under their present conditions, little chance of a fair representation of their interests in the councils in the near future.

The following are the outlying Oriya tracts proposed to be added to Orissa :—

GANJAM DISTRICT MINUS CHICACOLE TALUK AND VIZAGAPATAM AGENCY, MADRAS.

Ganjam lies on the Southern and Western limits of Puri District in Orissa and Vizagapatam Agency borders on the south-western side of Kala-handi in the Sambalpur District of Orissa.

1. As per census, 1911, Ganjam District minus Chicacole has a net population nearly two millions with an Oriya population of 10,91,05, against a Telugu population of 579,332, the rest being the speakers of other languages, mainly Khonds and Savaras. (284,286).

2. Vizagapatam Agency, out of a total population of 1,020,151, 645,402 are Oriyas including Porojas and Savaras who speak a dialect of Oriya against a Telugu population of 17,626, the rest being Khonds.

The last census report (1911), Madras, states a reduction in the Oriya population of Ganjam by nearly three lakhs compared with the census of 1901 and explains the difference by stating that the previous one must be wrong. But the recent census report wrongly classifies castes common to both Oriyas and Telugus and mixes up Oriya castes among Telugu, *e.g.*, Kshatriyas, Kalinjis, Belamas and 8 other castes, *vide* page 118, Vol. XII, Part 2. The matter was also brought to the notice of Government who promised consideration of it at the next census. This explains the reduction. The error must be due to the ignorance of the Telugu census officials of Oriya language or their deliberate misrepresentation or both. Separating these Oriya castes from Telugu, the Oriya population of Ganjam will be, in round figures, 15 lakhs as against one lakh of Telugu population in the whole of Ganjam, minus Chicacole. Hence the net population of Oriya Ganjam, proposed to be united with Orissa, will be 1,955,144 or nearly two millions out of which 15 lakhs are Oriya-speaking against one lakh of Telugu speakers, the rest being mostly speakers of Khond the unwritten language of the hill tribes, who are taught Oriya in the schools in the Agency. Thus the change proposed *re.* Madras consists of nearly 16,600 per sq. mile of territory with a net population of about three millions out of which over two millions of Oriyas against over two lakhs of Telugus; the rest being hill tribes.

ORIIA TRACTS, CENTRAL PROVINCES.

1. Khariar contains 8 per cent. of Oriyas with an Oriya Zemindar as their head.
2. Padampur and Chandarpur estates contain a fairly large proportion of Oriya population.
3. Phuljhar zemindari contains 50 per cent. of Oriya-speaking people. The last two tracts formed part of the Oriya District of Sambalpur in Orissa till 1903.
4. The Feudatory States of Bastar, Sarangarh, Raigarh, Udaipur, Jashpur are partly Oriya and partly Hindi-speaking.

SINGHBHUM, BIHAR AND ORISSA.

In Singbhum District the Oriyas number 125,593 against 258,201 "Ho's" and 108,584 Bengali-speaking people out of a total population of nearly 7 lakhs, "Ho" being an aboriginal dialect which will give place to Oriya in due course. *Vide* paragraph 9 of the letter of Government of India, no. 3678, dated the 3rd December 1903.

Most of the people in the District returned as Bengali-speaking are Oriyas by race but the Oriya language having been abolished from schools and courts and partly Bengali partly Hindi having been substituted in its place, the Oriya people are losing their mother-tongue through this enforced adoption.

MIDNAPORE, BENGAL.

The areas proposed to be transferred from the Midnapore District lie in the South of the District bordering on the Northern

side of Balasore District of Orissa. The Oriya-speaking people number 270,000 mainly confined to the Southern part of the District in thanas Dantan, Gopibalabhpur, Egra, Ramnagar, Contai, Pataspur, Jhargaon and Narayangar. The following fact should be noted here:—In 1891 the Oriya speakers—

In Midnapore were	.	.	.	.	.	.	.	572,798
In 1901	.	.	.	.	.	.	.	270,495
In 1911	.	.	.	.	.	.	.	181,801

The decrease is obviously due to the replacement of Oriya by Bengali in schools and courts. *Vide* Census Report of Bengal of 1911, Part I (Volume 5), page 389.

This is an instance of deliberate destruction of the Oriya identity by other stronger races.

In any scheme of territorial readjustment for the formation of a Provincial autonomy the Oriya would claim the areas indicated by Dr. Grierson as Oriya-speaking tracts in his comprehensive and careful Linguistic survey of India. *Vide* map of the (Oriya-speaking) tract at page 367, Volume 5, Part 2.

"The Orissa country is not confined to the division which now bears that name. It includes a portion of the District of Midnapore in the North, which together with a part of Balasore, was the "Orissa" of the phrase ("Bengal, Bihar and Orissa") met in the regulations framed by the Government in the last decades of the eighteenth century. Oriya is also the language of most of the district of Singhbhum belonging to the division, of Chota Nagpur and of several neighbouring Native States which fall politically within the same division. On the west it is the language of the greater part of the District of Sambalpur and of a small portion of the district of Raipur in the Central Provinces and also of the number of Native States which lie between these districts and Orissa proper.

On the south, it is the language of the North of the Madras District of Ganjam with its connected Native States, and of the Jeypore Agency of Vizagapatam. It is thus spoken in three Governments of British India, *viz.*, in the Lower Provinces of Bengal, in the Central Provinces, and in the Madras Presidency. Grierson, page 367.

The total area and population of Oriya-speaking tracts (870,000 square miles and over 14 millions of people) are fairly large for a single Administration as compared with Assam with an area of 52,959 square miles and a population of 6,713, 635 or Central Provinces and Berar with an area of 100,345 square miles and a population of 13,916,308.

The accompanying tabular statement shows the area, population, and the proportion of Oriya-speaking people in the specific tracts to be added to Orissa as per census 1911. The figures for the Central Provinces tracts are taken from the Blue book (reconstruction of Provinces, Bengal and Assam in continuation of Cd. 2658) 1905. The Oriya-speaking population of Ganjam has to be read in the light of the arguments stated at pages 10 and 11 *supra*.

The following tracts constitute the proposed united Orissa:—

Serial No.	Orissa Tracts.	Area in sq. miles.	Total population.	Orissa population.	Population speaking other principal languages of the Province.	Population speaking other languages falling to be absorbed in the Orissa language.	Remarks.
1	Butta and Orissa.	41.59	5,924,316	7,603,711	...	.....	Already in the Orissa Division.
2	Orissa Division including the Peshawar States.	3,831	694,394	121,093	Beasali 104,584	.....
3	Santhabum District in Chota Nagpur Division.	602	114,546	63,654	Hindi (nearly) 35,000	.....
4	Serikuly and Khairpur States in the Orissa Nagpur Division.					Mainly aboriginal.	
5	MORAR.						
6	Gunjam except the Telum Taluk of Chasabote.	1,000	1,000,719	854,661	Telugu 572,332	72,716	
7	Gunjam Agency.	3,181	350,066	132,392	Telugu 6,000	212,671	
8	Vishakhapatnam Agency.	12,721	1,650,151	674,637	Telugu 170,726	170,000 nearly Hindustani	
9	CENTRAL PROVINCES.						These Zemindaris are mostly Orissa-speaking. The States are partly Hindi and partly Orissa-speaking.
10	Palampur, Chasabote, Phulpur and Khairpur Zemindaris.	1,822	292,341	139,262	Hindi ..	Mainly aboriginal.	
11	Raipur, Sarinavath, Balasah, Udaipur, Jashpur States.	18,004	698,552	162,022	Hindi ..	Do.	
12	BEASALI.						
13	Central Sub-Division of Madhya Pradesh, Keokhar, Dantam, Goral, Abhapur, Jharasahi, Narayan, and Tharwan in the Mid-nagar District.	1,792	690,688	572,794	Beasali ..	.....
14	Total.	83,037	11,697,556	10,190,697	.....	.....

APPENDIX III.

THE GOVERNMENT OF INDIA'S LETTER NO. 3678, DATED THE 3RD DECEMBER 1903, ADDRESSED TO THE GOVERNMENT OF BENGAL.

I am directed to address you on the subject of the desirability of reducing the territorial jurisdiction of the Lieutenant-Governor of Bengal with the object of lightening the excessive burden now imposed upon the Government by the increase of population, the expansion of commercial and industrial enterprise, and the growing complexity of all branches of the administration.

2. As long ago as 1868 Sir Stafford Northcote drew attention to the greatly augmented demands that the outlying portions of Bengal appeared to make on the time and labour of those concerned in the government of the province. He referred to the famine of 1866 as furnishing evidence of the defects of the existing system of government when exposed to the ordeal of a serious emergency, and, among other methods of relieving the overtasked administration, he suggested the separation from Bengal proper of Assam and possibly of Orissa. In the discussions that followed the question was very thoroughly examined by a number of high authorities, and eventually it was decided that Orissa should remain attached to Bengal, but that Assam proper and certain other districts on the north-eastern frontier of Bengal should be formed into a separate Chief Commissionership directly under the Government of India. At the time when this decision was arrived at the population of Bengal as then constituted was believed to be between forty and fifty millions. The Census of 1872 showed it to be nearly 67 millions. With these figures before him Sir G. Campbell said, as Sir William Grey had said five years before, that the territories under the Lieutenant-Governor of Bengal were more than one man unaided could properly govern. Since then the population of Bengal, as it now stands, has risen to 78½ millions, and this increase has been accompanied by a considerable development of the material resources of the country, and a great extension of railways and other means of communication, while the spread of English education and the wider diffusion of the native press tend to increase litigation, to demand more precise methods of administration, to give greater publicity to the conduct of officials, and in every way to place a heavier strain upon the head of the Government and upon all ranks of his subordinates. In the opinion of the Government of India, the time has come when the relief of the Bengal Government must be regarded as an administrative necessity of the first order. And that relief can be afforded, not, as has been suggested on several previous occasions, by organic changes in the form of Government, but only actual transference of territory. It is unnecessary to refer to the circumstances which have brought about the great concentration of peoples (with a corresponding growth of administrative problems) in the de-

regions that constitute the greater part of Lower Bengal. The fact is sufficient that at the present time the Lieutenant-Governor of Bengal is called upon to administer an area of 189,000 square miles (151,000 British territory) with a population of 78,493,000 (74,744,000 in British territory) and a gross revenue of 1,137 lakhs (land revenue 505 lakhs).

3. The Government of India believe it to be beyond dispute that this is too heavy a burden for any one man, and that it cannot be adequately discharged save at the expense of efficiency. A Lieutenant-Governor of Bengal, if he spent the whole of the available season of the year in touring, could yet only succeed, during his term of office, in visiting a portion of his vast charge. As a matter of fact, it will commonly be found that places so important as Chittagong, Dacca, Cuttack and Ranchi receive not more than a single hurried visit within the five years. The Lieutenant-Governor is generally expected to be in Calcutta during the winter months, from November to April, and there his time is taken up not only by social duties, which are onerous and which tend continually to increase, but official or ceremonial functions in which he is called upon to play a leading part; while personal interviews occupy a large portion of his time. He is only able to undertake short and hurried excursions in his province at this, which is the most favourable season of the year: and the time that he devotes to his departments and to provincial administration is constantly being encroached upon by great Municipal and other problems. In the remaining seasons of the year he is unable to make up the deficit for which Calcutta has been responsible. The result of both these features, *viz.*, the hurried and necessarily incomplete tours of the Lieutenant-Governor through his province, and his overwhelming pre-occupations while he resides in the capital, is that in Bengal the work of government has come to be less personal in its character than in any other Indian administration. Anywhere in India this would be a grave defect, but it is worst of all in a province where already, owing to the existence of the Permanent Settlement, there is wanting that link of close knowledge and mutual understanding between the district officer and the people that is supplied by an intimate familiarity with the Land Revenue settlement and administration. Thus in the province where personal rule is perhaps most required, there is least of it, and where the officers know least of the people, the Government knows least of its officers. This is a state of affairs that cannot be revolutionised in a moment, and perhaps cannot be revolutionised at all. But the one course that is practicable is to reduce the gravity of the mischief by curtailing its extent, and to afford the opportunity for increased contact between the administration and the people by easing the former's burden. Already in 1874 the same line of reasoning led, in spite of many contemporary protests, to the severance of Assam from Bengal. The result has undoubtedly been beneficial to both parties, and the experiment has been justified. The time has now come when it should be repeated on a larger scale. No question of loss of prestige or even of temporary sacrifice of advantage ought

to stand in the way of a statesmanlike and far-sighted handling of the question. As in 1874, the main criterion of the action of Government should be the good of the districts and the people whom it is proposed to transfer, but behind this stands the paramount consideration that transference on a large scale has become an absolute necessity.

4. This curtailment can be effected only in two directions. The neighbouring provinces to Bengal are the United Provinces on the North-West, the Central Provinces on the West and South-West, Madras on the South, and Assam on the North-East and East. Proposals to take away Bihar and add it to the area now known as the United Provinces have been put forward in former days, but are not now likely to be revived. Moreover, the Government of the United Provinces with 112,000 square miles (107,000 British territory and 48,493,000 people (47,691,000 in British territory to administer, has already in respect both of area and population a sufficiently heavy charge. Nor would the Government of India propose (apart from special reasons connected with the circumstances of the border districts) to add to the area or responsibilities of Madras. That Government is fully occupied with 151,000 square miles (141,000 British territory) and 42,397,000 people (38,209,000 in British territory).

5. There remain then the Central Provinces and Assam. Both are young and growing administrations, capable of sustaining a heavier charge. Both will profit rather than lose by an increase of responsibilities. It is in these two directions that relief to Bengal must be sought and a readjustment of boundaries applied.

6. In considering the question of possible transfers of territory from Bengal to the Central Provinces, the Governor General in Council will deal first with the relatively less important area of Chutia Nagpur. Chutia Nagpur consists of five British districts and a number of Tributary Mahals, ruled by small Native Chiefs. The total area is 43,000 square miles (27,000 British territory), population 5,901,000 (4,900,000 in British territory), land revenue of British districts $7\frac{1}{2}$ lakhs. A large proportion of the inhabitants of this country consists of comparatively primitive people of aboriginal descent, who supply labourers to the coal-mines of Bengal, the tea-plantations of the Western Duars and Assam, and the jute or cotton mills on the Hughli. As far back as 1887, it was suggested that Chutia Nagpur should be transferred to the Central Provinces, but the proposal excepted the two districts of Hazaribagh and Manbhum, the former bordering upon Bihar and the latter upon Bengal, because of their greater affinities with Bengal characteristics. If Hazaribagh and Manbhum are both deducted from the area to be transferred to the Central Provinces, then the latter would receive in British territory 15,800 square miles and 2,421,000 people. If Manbhum alone is left to Bengal, the transfer to the Central Provinces would affect 22,000 square miles and 3,599,000 people. Bearing in mind the imperative necessity of affording relief to Bengal, the Government of India

are disposed, other things being equal, to advocate the transfer to the Central Provinces of the larger rather than of the smaller area. On this question I am to invite a full expression of the Lieutenant-Governor's opinion.

7. The arguments in favour of the transfer may be briefly summarised as follows:—

- (i) In character and state of development the people of Chutia Nagpur correspond much more closely with those in the Central Provinces than with the population of Bengal.
- (ii) The Bengal form of administration is too highly developed too legalised, and too impersonal for backward tracts and primitive hill-tribes. This view is borne out by the experience of a series of outbreaks in recent years and by the difficulties met with in dealing effectually with the land tenures of this part of the province.

8. The considerations on the opposite side may be stated thus:—

- (i) It will probably be represented that Chutia Nagpur is one of the few attractive divisions in Bengal, the stations of Ranchi and Hazaribagh being situated 2,000 feet above the sea and possessing considerable climatic advantages. The Bengal Government will doubtless not fail to give to this view the importance to which it is entitled; but it is clearly not one that should exercise a determining effect in the decision of the Government of India.
- (ii) There is a further argument that may perhaps be used in favour of leaving the district of Hazaribagh with Bengal. This is the existence in that district of some of the most valuable present or prospective coal-fields of Bengal (*e.g.*, Karharbari and Karanpura). The connection of this industry lies almost exclusively with Calcutta, and therein may be found a possible reason for the continuance of the present administrative tie. It is conceivable that the solution may be found in transferring a portion only of the district, so adjusted as to leave the principal coal-fields with Bengal. The same argument is capable of being used, although with less force, of the District of Palamau (containing the coal-field of Daltonganj); and the Lieutenant-Governor will know what value to attach to a plea for the association of these northern districts of Chutia Nagpur with Behar.
- (iii) It may also perhaps be urged that Ranchi is nearer to Calcutta than to Nagpur, and that difficult ranges of hills separate Chutia Nagpur on the west from the Central Provinces. The fact is that Chutia Nagpur is more or less inaccessible from most directions. No

administrative rearrangement can for the present alter this material fact. What the Government of India are concerned with, however, is the relief of its administrative rather than its physical isolation. If the people cannot be brought nearer to Government, it is at least desirable to bring Government nearer to them.

9. On a careful consideration of the foregoing arguments the Government of India are disposed to favour the transfer of Chutia Nagpur (except the District of Manbhum, and possibly part or the whole of Hazaribagh) with its Tributary Mahals to the Central Provinces. The only modification in this arrangement that may be required will be contingent upon the decision that may be arrived at concerning the Oriya-speaking peoples. If these are all to be concentrated, as is proposed below, in a single tract to be administered, not by the Central Provinces but by Bengal, then (supposing geographical conditions to render this practicable) it may be desirable to exclude such Oriya-speaking elements as there are in Chutia Nagpur, and to leave them with Bengal. They are contained almost exclusively in the District of Singhbhum where there are 100,000 Oriya-speaking people out of a total population of 613,000. In the centre of that district 235,000 people speak a Munda language, named Ho, which in course of time will probably give place to Oriya. The retention of Singhbhum by Bengal would be facilitated by the existence on its eastern border of the large Bengali thana of Ghatsila (220,000 population).

10. I am next to pass to a discussion of the case of Orissa. The total area of Orissa is 24,000 square miles (9,800 British territory), population 6,290,000 (4,343,000 in British territory), land revenue 28 lakhs. A glance at the map will show that, while under existing conditions Orissa is somewhat of a projection from the south-western corner of Bengal, if the proposals already made as regards Chutia Nagpur are carried out, its physical detachment from the remainder of that province will be still more pronounced. These circumstances, added to others which will be mentioned, have always brought the case of Orissa under examination when the question of relief to Bengal has been raised, and its transfer to the Central Provinces has been suggested on several occasions. The reasons urged in favour of the change are the same now as they were then. They may be stated and criticised as follows:—

- (i) There is a historical connection between Orissa and the Mahratta tracts of the Central Provinces. This argument might be of some use as supporting other considerations that pointed in the same direction. But it will be generally admitted that it has no independent value, since the question now under consideration is concerned not with ancient history, but with present and future needs.
- (ii) Orissa is a temporarily settled area (as are the whole of the Central Provinces), while the remainder of Bengal,

with the exception of certain tracts in Chittagong which will probably be transferred, is under the Permanent Settlement. This is a very weighty consideration, and the Government of India do not underrate its value. But, in the present situation, wider considerations even than those of Land Revenue settlement and administration must prevail.

- (iii) The national tongue of Orissa is Oriya, and as Oriya is the language spoken by $1\frac{1}{2}$ millions of people in the Central Provinces (mainly in Sambalpur and the attached States), therefore it may be contended Orissa ought to be joined to the Central Provinces. The argument from language is, however, equally capable of being used as a still more convincing plea for the union of the smaller Oriya-speaking area with the larger; and it is in this sense that it will presently be employed.

11. On the other hand, the reasons which have always hitherto prevailed against the transfer are as follows:—

- (i) Orissa has been for close upon a century under the Bengal administration. The prescription of a century is difficult to break, though not insurmountable. It is believed to be accompanied in the case of Orissa by a very strong feeling on the part of the educated and commercial classes in favour of the existing arrangements. This again is a condition that is capable of being overruled, but that requires a strong case of probable advantage to the severed unit in order to justify the change.
- (ii) But in the case of Orissa the strongest argument against any such probable advantage is to be found in the recent completion of the East Coast Railway, which has now brought the province into far closer connection with Calcutta than would ever be possible with the Central Provinces. Cuttack, the capital of Orissa, is distant only 12 hours from Calcutta as against 30 from Nagpur, and even if a connection were made *via* Sambalpur, the latter distance would only be reduced by about ten hours. In these circumstances, Orissa now receives from Bengal a degree of attention that it could hardly expect to obtain from the Central Provinces; while the completion of the railway has greatly strengthened the commercial links that already attach the internal and maritime towns of Orissa with Calcutta.
- (iii) The argument has sometimes been employed on paper that it would be a good thing to provide the Central Provinces with a maritime outlet. But it is weakened in this case by the fact that Orissa possesses no harbour that is capable of being turned into a port, Chandbally,

the only possible claimant, being difficult of approach and comparatively unfrequented.

The balance of argument as thus stated, appears to the Government of India to be on the whole decisive against the transfer of Orissa to the Central Provinces; although it is not desired to arrive at a final opinion, until the views of the Local Government, who are in a better position to represent local interests and necessities, have been fully heard.

12. The future of Orissa will not, however, be determined exclusively by a consideration of the points that have already been put forward. Other and wider issues are, in the opinion of the Governor General in Council, involved. They embrace questions of race and language, in addition to or apart from the more arbitrary distinctions of administrative or territorial partition. Oriya has been already referred to as the prevalent language of Orissa both in the plain districts and in the Tributary Mahals. It is also the vernacular of a large surrounding area. This area comprises—

- (a) Sambalpur and certain adjacent Feudatory States, now under the Central Provinces.
- (b) A part of the Singhbhum District of Chutia Nagpur, now under Bengal.
- (c) The Ganjam District, now under Madras, in which, out of a total population of 1,689,000, 1,275,000 are Oriya-speaking.
- (d) The Ganjam Agency Tracts, also administered by Madras, in which, out of a population of 321,000, 87,000 are Oriya-speaking. The majority (157,000) of the people of these tracts speak Khond, a Dravidian language which, as education spreads, is certain to give place to Oriya, while the speakers of Telugu number only 5,800.
- (e) The Vizagapatam Agency Tracts, also under Madras, in which, out of a population of 850,000, 409,000 are Oriya-speaking. The Vizagapatam District proper is in a different position, since, out of a population of 2,082,000, only 30,000 are Oriya-speaking, and this area accordingly does not enter into the field of the present discussion.

13. The difficulties arising from the problem thus created have been for years a source of anxiety and trouble to the different provinces concerned. No official complaint has been received from Bengal, because the factor of its Oriya-speaking population has been one with which it has had to deal for a century, and to which it has learned to accommodate itself as best it could. The Central Provinces, on the other hand, have experienced such difficulties in connexion with the administration of Sambalpur, that the Chief Commissioner asked in 1901 to be relieved of that district altogether, and although the Government of India were then unable to comply with the request, they were compelled to rescind a previous decision.

of 1895, which had proved unworkable in practice, and to restore Oriya as the court language of Sambalpur. Similarly the Government of Madras have repeatedly complained of the anxieties imposed upon the Administration by the great diversity of languages (Oriya, Tamil, Telugu, Malayalam, Canarese) with which Madras civilians are called upon to cope, and which render the transfer of officers from one part of the Presidency to another a matter in any case of great difficulty and often of positive detriment to the public interest. These disadvantages exercise an injurious effect not only upon the administration, but still more upon the people. Where the population speaking a distinct language and the area over which it is spoken are too small to constitute a substantial portion of a province, the foreign unit is almost of necessity neglected. Under ordinary conditions the Government is unable to retain in it a superior staff who have become acquainted with the local language, and with the local customs which invariably accompany it. It is often impossible to officer the subordinate staff from local sources, and foreigners have to be brought in who are ignorant alike of the people, their language, and their ways. The Government may order that the vernacular shall be the language of the Government offices and Courts; but since neither officers nor clerks know this vernacular properly, compliance with the order is often impracticable and almost always incomplete. Nowhere are these drawbacks more conspicuous than among the Oriya-speaking peoples, distributed, as has been pointed out, between three administrations, and a source of constant anxiety to each. Hence in dealing with a question of this kind, it may be that the true criterion of territorial redistribution should be sought not in race but in language. Applying this test in the present case it is doubtful whether any positive distinction can be drawn between the Oriya-speaking peoples of the plains and those of the hills. The Oriya of Sambalpur is described indeed as a hybrid *patois*, as compared with the purer tongue of Orissa. No doubt there is some truth in this. Hillmen always talk a ruder dialect than plainmen, and uncivilised tribes than civilised peoples. But there is reason to believe that in the Eastern half of the Sambalpur District good Oriya is spoken, though in the west it gradually melts into Chhatisgarhi Hindi. In any case practical experience goes to show that the connection between a spoken language and its dialect or its *patois*, is a more potent ground of union than a purely racial difference is one of separation. The Oriya-speaking group in any case emerges as a distinct and unmistakable factor, with an identity and interests of its own.

14. The opinions of the members of this group have, on several occasions, been expressed in no uncertain sound. They entertain, so far as is known, no particular desire for the disruption of existing ties, as compared one with the other; but they entertain the strongest desire for the disruption of all such ties if by these means they can purchase the much greater advantage of linguistic union. They ask not so much to be taken away from Madras, with whose

administration they are not believed to have grounds for complaint, or to be added to or taken away from the Central Provinces, or to remain under or be transferred to Bengal, as to be welded by the link of their common language into a single administrative whole. The Government of India have received a petition from the people of Ganjam, in which they speak of themselves as dissociated from their Oriya brethren and of Orissa as "a limb separated from the body", and they pray, not for a patchwork redistribution, but that the Government of India "will be graciously pleased to bring together the scattered divisions inhabited by Oriya-speaking peoples, *i.e.*, Ganjam in Madras, Sambalpur in the Central Provinces, and Orissa in Bengal, under the Government of Bengal or under any one Government and one University". To the same effect is the prayer of Raja Baikuntha Nath of Balasore that "all the districts and States speaking the Oriya language be united together and placed under one common administration, no matter whether under Madras, Bengal, the Central Provinces, or a separate administration". The Government of India have further been informed on the best authority that even those among the people of Sambalpur who are most attached to the Central Provinces "would prefer to sever connection with the province to giving up their mother tongue". It is for unity on the basis of language, not for redistribution on the basis of administrative advantage, that all these memorialists plead. It is not contended that opinions may not be forthcoming on the opposite side. If they exist they will doubtless be evoked by the present discussion. So far, however, as any expression of local views has yet reached the Government of India, it coincides with the independent impression that has been formed by them.

15. On the grounds above stated the Government of India are disposed to unite the whole of the Oriya-speaking peoples, both hill and plain, under one administration, and to make that administration in Bengal. In other words, they would add to Orissa the Oriya-speaking tracts of Sambalpur (615,941 Oriya-speaking people out of a total population of 829,698), and its Feudatory States, the Ganjam District (with the possible exception of one taluk in which Oriya is said not to be the prevalent language) and the Ganjam and Vizagapatam Agency Tracts. Such a scheme would solve the question of language once and for all. This change would relieve both the Central Provinces and Madras of a troublesome excrescence upon their administrative system: and it would result in handing over the Oriya problem to one Government alone, on a scale and with a unity that would admit of its being treated with consistency and efficiency.

16. If the objection be raised to this suggestion that, while in the earlier portion of this letter the Government of India advocated relief to Bengal, they are now proposing to add to its burdens, the answer will be found in the far more important changes that will be explained in the remaining paragraphs.

17. The effect of the proposals hitherto sketched on the population of the Central Provinces is shown in the following statement:—

Central Provinces.

—	Population in British Territory.	Total Population.	Population in British Territory.	Total Population.
Present Population . . .	9,876,646	11,873,029	} = 15,616,148	18,613,960
<i>Gains.</i>				
Berar	2,754,016	2,754,016		
Chutia Nagpur (<i>minus</i> Man- bhum and Singhbhum).	2,985,486	3,986,915	} = 659,971	1,608,391
<i>Losses.</i>				
Sambalpur (<i>minus</i> Phuljhar and Chandarpur) (169,727).	659,971	659,971		
Five Oriya Feudatories . .	...	948,420		
Total population . . .	...	...	14,956,177	17,005,569

18. The Governor-General in Council now turns to the concluding province which has a claim to gain in any redistribution scheme that may be put forward. It is now nearly 30 years since Assam was severed from Bengal, and 11 years since it received the only territorial addition that has subsequently been made to it. This was the Lushai Hills in 1892. In 1896-97 there was a prolonged discussion as to whether the Chittagong Division should also be transferred to Assam. But, though the project seemed at one time likely to take shape, it was eventually set aside for the time on grounds which have now ceased to have effect. The result is that Assam remains in much the same condition in respect of boundaries as when it was first created a Chief Commissionership, and is both the smallest and the most backward of the local Administrations. It contains an area of 56,000 square miles (nearly 53,000 British territory), a population of 6,126,000 (5,841,000 in British territory), and a gross revenue of 128 lakhs (land revenue 68 lakhs).

19. The Government of India are aware that the smallness and backwardness of Assam have been appealed to as supplying a sufficient argument against any expansion at all. They are inclined to entertain precisely the opposite view. In their opinion it is to its contracted area, to its restricted opportunities, to its lack of commercial outlet, to its alien services, and to the predominance in its life and administration of a single industrial interest depending in the main upon imported labour, that what has been described as the parochialism of Assam is due. The province requires an

impulse forward in all of these directions. It requires territorial expansion in order to give to its officers a wider and more interesting field of work. It requires a maritime outlet in order to develop its industries in tea, oil and coal. The paying portions of the Assam-Bengal Railway are in the south, and the whole line, if it is to be utilised in the interests of the province, ought to be under a single administration. Assam moreover will continue to be handicapped, so long as it is dependent for its service upon what it may be fortunate enough to borrow from Bengal. A province that can only offer the prize of one Commissionership, that is remote in locality and backward in development and organisation, will not attract the highest type of civilians to its employ. The Government of India regard it indeed as incontestable that, with a service recruited as at present and confined within the present limits, Assam will find extreme difficulty in attaining the level of a really efficient administration; and it is for this reason that, in considering the question of changes, they are impressed with the paramount necessity for making them on such a scale as will remove this fundamental source of weakness, and will, if possible, give to Assam a service of its own, offering a career that will attract and retain men of ability and mark. No temporary opposition in the transferred towns or areas, no artificial agitation or interested outcry, should in their opinion be permitted to divert the efforts of Government from the main object, *viz.*, the erection of Assam into a vigorous and self-contained administration, capable of playing the same part on the North-East Frontier of India that the Central Provinces have done in the centre, and that the Punjab formerly did on the North-West. If this end can be attained coincidently with a relief to the overburdened and congested administration of Bengal, the reform should be the more cordially recommended and the more readily approved. The Governor-General in Council will now proceed to explain the means by which he thinks that this object may be secured.

20. The Chittagong Division consists of four Districts with an area of 11,770 square miles, a population of 4,737,000 and a land revenue of 31 $\frac{3}{4}$ lakhs. Attached to it is the Native State of Hill Tippera, with an area of 4,000 square miles, and a population of 173,000. It has already been mentioned that the incorporation of these areas with Assam has more than once been under discussion; while a reference to the papers on the last of these occasions, *viz.*, in 1896-97, will show that it was then postponed rather than vetoed, the reasons against its acceptance being mainly of a temporary character, which have since disappeared. There is now a strong consensus of official opinion in favour of the change, and the people of Chittagong themselves, who have previously been opposed to the transfer, are understood to have changed their view and to be largely in favour of the change.

21. The main arguments in its favour, in addition to the above consensus of authoritative opinion, are the following:—

(i) The port of Chittagong has not attained the full development of which it appears to be susceptible under the administration of

Bengal. In any case, it cannot have been easy for a local Government dominated by the interests of a great port like Calcutta, to do much towards promoting the advancement of a humble rival, situated so short a distance away. The Chittagong Port Trust is in consequence in a somewhat unsatisfactory condition, and it has been necessary to consider special measures for adding to its revenues. If on the other hand Chittagong were added to Assam, these special drawbacks might be expected to disappear. There would be every inducement to the Local Government to develop the port, since the entire interests of the province, financial, industrial and commercial, would be involved in its welfare. Already the advent of the railway has caused a considerable stir in Chittagong, and the value of land is rising with startling rapidity. The Government of India entertain no doubt that Chittagong, if transferred to Assam, will find a great future awaiting it, and that the port will gain equally with the internal industries of which it is the maritime outlet, and whose produce demands easy and rapid access to the sea. Further, there can be little doubt that Chittagong, even if it did not become the cold weather headquarters of the Chief Commissioner, must at least receive a great deal of his attention and time.

(ii) The Assam-Bengal Railway will be administered with a greater regard to the interests of the province if it is placed under single instead of divided control. If the heavy expenditure incurred on this line is to be justified, if its mountain sections are to be really utilised in the exploitation of the country, it can only be by a fusion of interests between the upper and lower portions of the line; and to this a single administration will powerfully contribute. The junction between the two portions of the railway is on the verge of being effected; only a small section between Badarpur and Lunding remains to be finished; and then the oil-wells of Digboi and Makum, the coal-mines of Margharita, and the tea plantations of the Upper Brahmaputra, will be placed in unbroken connection by rail with the Bay of Bengal.

(iii) There is no distinction, but, on the contrary, the closest resemblance between the condition of the people and the administration in the Chittagong Division, and those in the neighbouring Assam Districts of Sylhet and Cachar. The systems of land settlement and tenure are the same in both areas; the inhabitants are identical in race, religion and language. The objections which were raised thirty years ago to the absorption of Sylhet and Cachar in Assam have proved to be unfounded: and if those districts were now to be given the option of re-union with Bengal, the Government of India believe that they would decline the offer.

22. To the arguments that have on previous occasions been brought, or that might be brought now, against the change, a sufficient reply is, in the opinion of the Government of India, in each case forthcoming.

(i) A fear has been expressed that the people of Chittagong would suffer by being subjected to an inferior standard of law and

administration. There does not appear, however, to be any ground for this apprehension. For it is certain that there would be no change either in the class of officers employed, or in the administration of the law, while all the operations of Government would receive closer supervision from the Chief Commissioner of Assam than they can possibly meet with from the Lieutenant-Governor of Bengal.

(ii) A similar fear has found vent that Chittagong would be removed from the jurisdiction of the High Court of Calcutta. This also is a groundless alarm, for the jurisdiction would remain as now.

(iii) The loss of the control of the Bengal Board of Revenue has also been cited as a serious deprivation. The same thing was said in 1874 of Sylhet and Cachar. Under the present system the Chief Commissioner of Assam acts as Commissioner for those two districts, which do not appear to have suffered under his charge. This system will, of course, cease if Assam is enlarged to the full extent which the Government of India contemplate; and the contrast will then be between administration by a Board of Revenue and administration by a Chief Commissioner as in the Central Provinces. On various grounds the Government of India are disposed to prefer the latter system. In connection with this question it should be noted that in 1896 the members of the Bengal Board of Revenue were themselves strongly in favour of the transfer of Chittagong, and only advocated its postponement until the new settlement had been concluded and the railway finished; while Sir A. Mackenzie wrote in Mr. Bolton's letter of 13th August 1896—"There will be a temporary disadvantage in having to prefer revenue appeals before what will be at first an inexpert tribunal; but the Assam Administration will soon master the subject, specially as the local ministerial establishments, who are familiar with the records, would also be transferred, and the Board of Revenue in Bengal could always be consulted".

(iv) There remains the loss to Chittagong of what Sir A. Mackenzie, in the same letter described as "its fractional interest in the Bengal Council". The value of this asset is, in the present conditions, small. Moreover, such as it is, its loss would be more than compensated if Assam (presuming it to receive the larger instead of the smaller expansion under discussion) were to share a seat on the Legislative Council of the Governor General with the Central Provinces, furnishing a member alternately with that administration.

23. The foregoing proposals will have some effect in extending the possibilities of the development of Assam and diminishing its drawbacks. But in the opinion of the Governor General in Council they will still fall short of providing it with that which is the real secret of efficient administration, *viz.*, a self-contained and independent service. Moreover the union of the Oriya-speaking people under Bengal will involve a substantial addition to its population in the south, while the transfer of the greater part of Chutia Nagpur and the whole of the Chittagong Division with

Tippera will only bring about a net reduction of some five millions in the population now subject to the Lieutenant-Governor. It is clear that this would represent no great advance in the direction of affording relief to Bengal from its present excessive burden. It is mainly from these two points of view—the necessity of improving the Assam services and of reducing the responsibilities of Bengal—that the Government of India now proceed with a further suggestion, namely, the proposal to incorporate with Assam the districts of Dacca and Mymensingh.

24. These two districts of Eastern Bengal contain an area of 9,000 square miles, a population of 6,564,000, and a land revenue of 17 lakhs. Their association with Assam was first suggested by Sir W. Ward, Chief Commissioner, in 1896. It was opposed by his successor, Mr. (now Sir H.) Cotton, in 1897. It has been discussed in a tentative manner by the present Chief Commissioner. Mr. Fuller sees how greatly the transfer would be to the interest of his province, but he also recognises the difficulties, and he entertains some apprehension at the idea of Assam being swallowed up by Eastern Bengal. On the other hand, the transfer is strongly recommended by other authorities.

25. Apart from the broader considerations to which attention has already been called, the arguments for the transfer may be stated as follows:—

(i) Geographically, Dacca and Mymensingh are separated by a clear line of division, *viz.*, the main channel of the Brahmaputra River, from Bengal. If they are joined to Assam, the latter will possess a definite and intelligible western boundary, whereas if the Chittagong Division is assigned to Assam, and Dacca and Mymensingh are left with Bengal, then the two latter districts will constitute a projection from the main body of Bengal obtruding itself into the heart of Assam, from which they will be separated by no ties either of origin, language, religion, or administration.

(ii) Not only will the transfer enable Assam to obtain an independent service, but that service would possess three separate Commissionerships, which would be its prize appointments. These would be (1) the Brahmaputra valley or Assam proper; (2) Dacca, to which would be added Sylhet and Cachar; (3) Chittagong.

(iii) The proposed transfer of Chittagong to Assam would constitute Chittagong the port of Assam. Equally would it be the port of Dacca and Mymensingh, of which it is the natural commercial outlet. Though the associations of these two districts have hitherto been almost exclusively with Bengal, yet the connection between them and Calcutta is from the physical point of view both arbitrary and unnatural, the numerous intervening rivers rendering communication difficult and slow.

(iv) There remains an argument to which no small weight attaches and which cannot be left out of consideration. The Government of India have reason to believe—and their impressions were strongly confirmed by the enquiries of the Police Commission—

that there is no portion of Bengal where the drawbacks of an imperfectly supervised administration are more evident than in these outlying districts on its eastern border, and that nowhere is the absence of close and intimate touch between the officers of Government and the people more apparent or more regrettable. The Government of India believe that it would be an undoubted advantage to Bengal to lose these elements of weakness; and that the population and interests of the districts in question would be materially the gainers if they were brought into closer contract with the officers and the head of the local administration.

26. On the other hand the Governor-General in Council thinks it not unlikely that the proposal which has been here put forward may meet with keen criticism and perhaps in parts with strenuous opposition. The lines which such opposition may be expected to take will probably be the following:—

(i) The change will doubtless be represented as one of a retrograde character, tending to place a highly advanced and civilised community under a relatively backward administration. The influence of those sections of the local population, whose associations have hitherto lain with Calcutta and who appreciate a gravitation that draws them towards the capital both of a great province and of the Government of India, will be thrown into the same scale. These objections are deserving of consideration, but they are not of course of capital importance. They were successfully and wisely disregarded in the case of Sylhet and Cachar. They were formerly advanced, but have now been waived, in the case of Chittagong. As obstacles to an agreement by common consent they may be powerful now. But their weight is one that must be measured against the vastly superior interests at stake, and that will rapidly dwindle (should the change be effected) and before long disappear. The nearest analogy that occurs to the Government of India is that of the Talukdars of Oudh, who protested vigorously against their incorporation with the North-Western Provinces nearly half a century ago, but who have long ago acquiesced in the change, and would now equally resent a reversion to the *status quo ante*. But there is this remarkable difference, that whereas the Talukdars were many, there are comparatively few considerable zemindars in the area under examination, and they would gain in status and consideration by becoming the recognised magnates of a self-contained and progressive province.

(ii) It is possible that objections may be advanced on judicial grounds. The Government of India can see no reason why this should be the case, since the jurisdiction of the High Court of Calcutta over these districts would remain unaltered. Mr. Melitus, the Commissioner of the Assam Valley, remembering that in 1880 the High Court themselves suggested the appointment of a Judicial Commissioner at Dacca, has revived the idea. The Government of India, as at present advised, do not see its advantages; and they are disposed to think that the inhabitants of the district would probably prefer the continuance of the present

system, which would, as Mr. Fuller has pointed out, open up an avenue of possible promotion to the eight Judges serving in Assam.

(iii) Finally, there is the argument, suggested by the Chief Commissioner himself, that if Assam were thus enlarged, it would be swamped by the area added to it, and that the change would in effect be rather the annexation of Assam by Eastern Bengal, than the transfer of Eastern Bengal to Assam. To the Government of India these fears appear to be, if not exaggerated, at any rate not formidable. Moreover, as has been observed above, they are disposed to think that the predominance of a single labour question and a single industrial interest in Assam is not on the whole advantageous. The province as reconstructed would acquire a new and composite character; but this character would not be more composite than is found in many other Indian administrations, while it would add to the importance and variety of the whole.

27. Balancing the arguments on either side and bearing in mind the permanent considerations mentioned in paragraph 25, the Government of India are decidedly in favour of the addition of the districts of Dacca and Mymensingh, as well as of the Chittagong Division, to Assam. They believe that this transfer would be the most efficient means for securing the end that they have in view, *viz.*, the ultimate benefit of the community, and the progressive improvement of the administration as a whole.

28. In conclusion, I am to state the figures for Bengal and Assam as they will stand, if the proposals of the Government of India are carried into execution. It will be observed that they relieve Bengal to the extent of 11 millions of people, and that they place Assam almost exactly upon the same level with the Central Provinces, namely, 17 millions.

BENGAL—Present population 78,493,410

<i>Gains.</i>		<i>Losses.</i>	
Sambalpur (from Central Provinces)	659,971	Chittagong Division and Hill Tippera (to Assam)	4,911,056
Feudatory States (from Central Provinces)	948,420		
Ganjam District (from Madras)	1,689,142	Dacca and Mymensingh (to Assam)	6,564,590
Ganjam and Vizagapatam Agency Tracts (from Madras)	1,172,102	Chutia Nagpur (to Central Provinces)	3,986,915
	<u>4,469,635</u>		<u>15,462,561</u>
Net loss to Bengal	10,992,926	Future population	67,500,484

ASSAM—Present population 6,126,343

<i>Gains.</i>	
Chittagong (from Bengal)	4,911,056
Dacca and Mymensingh (from Bengal)	6,564,590
Net gain to Assam	11,475,646
Future population	17,601,989

I am to ask that the Government of India may be favoured with a full expression of the views of the Lieutenant-Governor on the reconstruction of Bengal that is proposed in this letter and the effect of which is summarised in the foregoing statement.

APPENDIX IV.

PARAGRAPHS 11 AND 20 OF THE GOVERNMENT OF INDIA'S DESPATCH,
DATED THE 25TH AUGUST 1911, ADDRESSED TO THE SECRETARY
OF STATE.

11. If the headquarters of the Government of India be transferred from Calcutta to Delhi, and if Delhi be thereby made the Imperial capital, placing the city of Delhi and part of the surrounding country under the direct administration of the Government of India, the following scheme, which embraces three inter-dependent proposals, would appear to satisfy all these conditions:—

- I. To reunite the five Bengali-speaking divisions, *viz.*, the Presidency, Burdwan, Dacca, Rajshahi and Chittagong divisions, forming them into a Presidency to be administered by a Governor-in-Council. The area of the province will be approximately 70,000 square miles and the population about 42,000,000.
- II. To create a Lieutenant-Governorship-in-Council to consist of Behar, Chota Nagpur and Orissa, with a Legislative Council and a capital at Patna. The area of the province would be approximately 113,000 square miles and the population about 35,000,000.
- III. To restore the Chief Commissionership of Assam. The area of that province would be about 56,000 square miles and the population about 5,000,000.

20. We now turn to the proposal to create a Lieutenant-Governorship-in-Council for Behar, Chota Nagpur and Orissa. We are convinced that if the Governor of Bengal is to do justice to the territories which we propose to assign to him, and to safeguard the interests of the Mohamedans of his province, Behar and Chota Nagpur must be dissociated from Bengal. Quite apart, however, from that consideration, we are satisfied that it is in the highest degree desirable to give the Hindi-speaking people, now included within the Province of Bengal, a separate administration. These people have hitherto been unequally yoked with the Bengalis, and have never therefore had a fair opportunity for development. The cry of Behar for the Beharis has frequently been raised in connection with the conferment of appointments, an excessive number of offices in Behar having been held by Bengalis. The Beharis are a sturdy loyal people, and it is a matter of common knowledge that, although they have long desired separation from Bengal, they refrained at the time of the Partition from asking for it, because

they did not wish to join the Bengalis in opposition to Government. There has, moreover, been a very marked awakening in Behar in recent years, and a strong belief has grown up among Beharis that Behar will never develop until it is dissociated from Bengal. That belief will, unless a remedy be found, give rise to agitation in the near future, and the present is an admirable opportunity to carry out on our own initiative a thoroughly sound and much desired change. The Oriyas, like the Beharis, have little in common with the Bengalis, and we propose to leave Orissa (and the Sambalpur district) with Behar and Chota Nagpur. We believe that this arrangement will well accord with popular sentiment in Orissa and will be welcome to Behar as presenting a sea-board to that province. We need hardly add that we have considered various alternatives, such as the making over of Chota Nagpur or of Orissa to the Central Provinces, and the creation of a Chief Commissionership instead of a Lieutenant-Governorship for Behar, Chota Nagpur and Orissa, but none of them seem to deserve more than passing consideration, and we have therefore refrained from troubling Your Lordship with the overwhelming arguments against them. We have also purposely refrained from discussing in this despatch questions of subsidiary importance which must demand detailed consideration when the main features of the scheme are sanctioned, and we are in a position to consult the local Governments concerned.

* * * * *

APPENDIX V.

The Philip-Duff Enquiry Report

REPORT ON ENQUIRY INTO ATTITUDE OF ORIYA-SPEAKING POPULATION
OF THE MADRAS PRESIDENCY TOWARDS AMALGAMATION WITH
OTHER ORIYA-SPEAKING TRACTS.

*Resolution by the Government of India, Home Department, No.
F-669/22-Public, dated Simla, the 1st October 1924.*

The following Resolution was moved by Mr. Sachchidananda Sinha in the old Imperial Legislative Council on the 20th February 1920:—

“ This Council recommends to the Governor-General in Council that a mixed Committee of non-officials and officials be appointed to formulate a scheme for the amalgamation of the Oriya-speaking tracts at present administered or controlled by the Governments of Madras, Bengal and the Central Provinces, with the existing Orissa Division of the province of Bihar and Orissa ”.

And in accordance with the promise then made on behalf of Government much information on the subject has been collected.

2. The most important areas in British India inhabited by Oriya-speaking peoples, which are not now included in Orissa, are

contained in the Ganjam and Vizagapatam Districts of the Madras Presidency. The Governor-General in Council is not, however, satisfied as to the wishes of the Oriyas in these areas. There may or there may not be a genuine desire on the part of these Oriyas to be amalgamated with the Oriyas of Orissa and it is clear that if there is no such desire further steps towards amalgamation should not be taken at the present juncture. The Governor General in Council has therefore decided to depute two officers, of whom one should be nominated by the Madras Government, to make detailed enquiry on the spot regarding the attitude of Oriya inhabitants of the Madras Presidency towards the question of the amalgamation of the tracts inhabited by them with Orissa. The Governor-General in Council has nominated Mr. C. L. Philip, I.C.S., at present Political Agent, Orissa Feudatory States, and the Government of Madras has nominated Mr. A. C. Duff, I.C.S., at present Collector of Bellary in the Madras Presidency, for this duty. These officers will carry out the enquiry jointly and report to the Government of India. The enquiry will begin at once.

ORDER.—Ordered that a copy of the above Resolution be published in the *Gazette of India* and communicated to ^{The Government of Madras.} Mr. C. L. Philip, I.C.S.,
Mr. A. C. Duff, I.C.S.

LETTER FROM MESSRS. PHILIP AND DUFF, ORIYA AMALGAMATION ENQUIRY, TO THE SECRETARY, GOVERNMENT OF INDIA, HOME DEPARTMENT, DELHI, DATED CAMP CUTTACK, THE 26TH DECEMBER 1924.

We have the honour to send herewith our report in accordance with Government of India Resolution No. F.-669-Public, Home Department, dated Simla, the 1st October 1924. The enclosures referred to in the report are despatched in a separate registered parcel. Signatures and petitions are being sent by passenger train as the package is too bulky to be sent by post: the rail receipt will follow. We completed our duties on the afternoon of 26th December 1924. To cash bills our clerk is being sent back to Berhampore and will relinquish his duties there. A final statement of accounts will be despatched by Mr. Duff from Bellary early in the new year.

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REPORT ON ORIYA AMALGAMATION ENQUIRY.

1. *Scope of Enquiry.*—Under the terms of Government of India Resolution, Home Department, No. F.-669-Public, dated 1st October 1924, we were appointed “to make detailed enquiry on the spot regarding the attitude of Oriya inhabitants of the Madras Presidency towards the question of the amalgamation of the tracts inhabited by them with Orissa”.

2. *Area affected.*—The skeleton map supplied to us by the Government of India, and based on census figures of 1921, shows that the tracts inhabited by Oriya-speaking people in the Madras Presidency correspond roughly with the Jeypore Estate and the Ganjam district. In the Jeypore Estate the census figures show that the Malkanagiri, Padwa, Pottangi, Rayagada, Bissemkatak and Gunupur Taluks contain less than 50 per cent. of Oriya-speaking inhabitants. We thought it unnecessary, therefore, to visit those areas though we did travel through the Pottangi Taluk. Similarly in the Ganjam District we did not visit the purely Telugu areas of Chicacole and Narasannapet and confined our enquiries in the Ganjam Agency, where the people are mostly Khonds and Savaras, to a short tour in the Ghumsur Udayagiri Taluk, obtaining also the opinions of a number of leading “Muthadars” of other parts.

Though both Oriyas and Telugus question the accuracy of the census figures as showing the proportions of Oriya and Telugu-speaking people, and though from our local experience we find that these figures apparently in some areas include and in some exclude Oriya-speaking aboriginal people, we consider from our observations on the spot that they give a sufficiently correct idea of the facts for the purpose of the present enquiry.

3. *Method adopted.*—On receipt of the orders of appointment and before starting the detailed local enquiry we addressed the Collectors of both districts, published notices, and a preliminary tour programme in the local papers, and opened correspondence with numerous officials and non-officials interested in the question. We each visited the headquarters of our respective Governments to study the previous papers on the subject and to acquire information likely to be of assistance. Mr. Philip arrived at Berhampore on the 28th October to make final arrangements with the local officials regarding the tour, to collect information about the district, and to receive the written statements of various individuals and bodies previously called for. He proceeded to Vizagapatam on the 8th

November for the same purpose and was joined there by Mr. Duff on the 12th November. We then published a revised tour programme and informed prominent individuals, public bodies, and organized Associations, that we would interview them at the dates and places given in the programme. In accordance with this plan, we have throughout our tour interviewed many individuals, official and non-official, heard the views in detail of numerous deputations, and received addresses from the public at all places of importance. We have in addition visited many way-side villages and conversed with large numbers of raiyats. Though owing to the cyclones of last year and this we were put to considerable difficulty in moving about the country, we were still able to visit a sufficient number of villages to give us a sound idea of the views of the cultivating classes.

A copy of our tour programme and a map showing the routes followed is attached to the report as Enclosure 'A'.*

Enclosure 'B'* which deals with Ganjam only is divided into five parts. The first contains copies of the addresses read to us personally at different centres; the second contains resolutions passed by various associations and public meetings and forwarded to us by post; the third contains précis provided by several of the deputations interviewed by us; the fourth contains a selection of the written opinions of the more important individuals; the fifth contains resolutions on the question passed by such Local Boards as have considered it.

4. *Attitude of Oriya inhabitants of Vizagapatam District.*—The Maharaja of Jeypore has given his opinion against amalgamation as far as the Vizagapatam Agency is concerned in the statements in Enclosure 'C'.* We also saw him personally at Waltair, but he did not then add anything to what he had set forth in his written statements, which give detailed reasons for the view that he holds.

The views of the Oriya inhabitants of the district were obtained by us at Waltair and during our tour through the Koraput Agency: resolutions passed at various public meetings were also forwarded to us. A selection of these is included in Enclosure 'D'* along with the opinions of prominent individuals and a copy of an address presented to us at Waltair by a deputation of representatives from various parts of the district presided over by Sreeman Vikrama Deo Varma, President of the Utkal Samaj, Vizagapatam. These all express a desire for the amalgamation with Orissa of the tracts inhabited by the Oriya-speaking people of the district. Some of these statements come from areas which are sparsely inhabited by Oriya-speaking people and do not require much consideration at present; and many of the figures and general assertions given in the detailed arguments used by the Vizagapatam Utkal Samaj and in the Vizagapatam address are misleading. Their claim that the whole of the Vizagapatam Agency is largely populated by Oriya-speaking people and that the hill tribes are closely allied to Oriyas is incorrect. Census figures show a preponderance of Oriya-speaking

* Not printed.

people in Koraput, Jeypore and Naurangpur Taluks and nowhere else throughout the Vizagapatam Agency. With the exception of the Savaras in Gunupur Taluk and scattered Kolarian tribes elsewhere the majority of the hill tribes are in origin Dravidian. It is true that in the three taluks where Oriya is shown as the prevailing language numbers of the hill men have adopted Oriya. In those taluks we found on our tour that the Brahmins and other high caste Hindus were largely descendants of immigrants brought into and settled in the Estate by previous Rajas. Representatives of these families and other educated Oriyas whom we interviewed at Koraput, Jeypore and Naurangpur expressed a strong desire for amalgamation with Orissa, but when we reached villages where their influence had not penetrated we found either a total ignorance of the question or merely a desire for the continuance of the Oriya language without any conception of the meaning of amalgamation. The president of the Union Board of Jeypore, who was the chief spokesman for the local deputation, admitted that most of the 8,727 signatories to the petitions for amalgamation presented to us from the Agency were Brahmins and Koronos as these were almost the only literate classes and that the cultivating classes had no opinion on the matter..

5. *Opinions of Zemindars of Ganjam.*—The opinions of the Zemindars of Ganjam are summarised in the Resolution passed at a meeting of the Zemindars' Association at Berhampore on the 2nd November 1924. Enclosure 'E' (1)* is a copy. It was proposed by the Rajah of Parlakimedi, seconded by the Zemindar of Khallikote and Atagada and carried unanimously "that this Association is of the opinion that for the advancement of the Oriyas it is absolutely necessary that all the Oriya-speaking tracts be brought under one administration".

Mr. T. V. Narasinga Rao, a Telugu Malukdar of Aska Taluk, who was present at that meeting, later stated before Mr. Duff at Aska and submitted to us a representatoin [Enclosure 'E' (7)]* in which he said that he was not in favour of the partition of Ganjam and the amalgamation of any part of it with Orissa, and that when the resolution quoted above was discussed it was distinctly understood that amalgamation with Orissa as a separate province was meant. We have been given good reasons to believe that the statements made in this representation are incorrect. The Malukdar did not take any part in the discussion at the meeting.

During our tour we interviewed the Zemindars of Parlakimedi, Khallikote and Atagada, Dharakote, Mandasa, Chikati, Bodogada, Sergada, Surangi, Tekkali, Nandigam, Tarla, the Proprietor of Baruva, and the Malukdars of Aska. With the exception of the last named, who will be referred to in a separate paragraph, all expressed themselves as in favour of amalgamation of the Oriya-speaking tracts under one administration. They considered generally that socially, economically and politically the Oriyas would be benefited by the union and though some doubts were expressed, as by the

* Not printed.

Rajah of Parlakimedi who thought that he might have some trouble with his Telugu raiyats and by the Zemindar of Sergada who considered that amalgamation might result in some personal loss to the Zemindars of Ganjam, they were unanimous in the opinion that for the good of the Oriya community as a whole union was essential. All were further unanimous in the opinion, which was strongly expressed, that no estate should be partitioned and that all the Oriya estates should be transferred together. They were definitely against any suggestion that any estate belonging to an Oriya Zemindar should be left under a separate administration on account of a majority of its inhabitants being Telugu.

The question of the form which the united administration would take is outside the scope of the present enquiry but on this point it seems desirable to note that the opinions of some of the Zemindars were indefinite and that other did not care for amalgamation with Bihar. They seemed to prefer the idea of a separate Orissa. The Rajah of Parlakimedi did not think that any advantage would be gained if Ganjam were brought under Bihar and Orissa, but was not prepared to discuss the problem in detail. The Zemindar of Mandasa did not much like the idea of Bihar and said he was quite happy under the administration of Madras; while he thought that it would be a good thing for the Oriyas to be united in one province he admitted the financial difficulty of a separate Oriya province and suggested that a combined Oriya and Andhra province with its capital at Vizagapatam would be a practicable and useful proposition. The Zemindar of Dharakote thought that a separate Orissa would be financially possible, but in any case the Oriyas would benefit by being united under one administration. The Zemindar of Bodogada was desirous of a separate Orissa: till that eventuated he thought that the Oriyas would be able to get along under Bihar and Orissa but feared that the Bihari and Oriya problem would be just as bad as the Telugu and Oriya problem now is and that there would not be much advantage in going over to Bihar and Orissa if a separate Orissa was not ultimately formed. The Zemindar of Nandigam held the same views but when told that there were practically no Biharis in Orissa proper he said that, in that case, he would not object to amalgamation with Bihar and Orissa.

The Zemindar of Khallikote and Atagada, who is President of the District Board of Ganjam, of the Zemindars' Association of Ganjam and of the Khallikote College, Berhampore, is definitely of opinion that a separate Orissa is financially impracticable, that a union of Orissa with Andhra province would be distinctly injurious to the Oriyas, and that the immediate amalgamation of the Oriya-speaking tracts of Madras with Orissa is essential for the interests of all classes of Oriyas whether they be zemindars or raiyats. His written statement [Enclosure 'E' (2)]* puts the case very clearly and may be taken as expressing the views of all the Oriya Zemindars of the district.

* Not printed.

The Raja of Bobbili is the owner of the Biridi Estate and the Raja of Vizianagram is the owner of the Jalantra Estate in Ganjam district. Both these Zemindars own extensive estates in the Vizagapatam district. They have given their opinion in favour of amalgamation and their letters are Enclosures 'E' (3) and 'E' (4).^{*} The Raja of Vizianagram has no objection to the proposal for amalgamation. The Raja of Bobbili thinks that though amalgamation with Orissa will cause some administrative inconvenience to himself this must be over-looked in view of the fact that the Oriya population of the Biridi Estate unanimously desires amalgamation.

6. *Opinion in areas where population is less than 50 per cent. Oriya-speaking.*—The map already referred to shows a considerable area in the Vizagapatam district as containing an Oriya population varying from 10 per cent. to 50 per cent., but that area we have dealt with in a separate paragraph. We are here concerned with similar tracts in the Ganjam district excluding the Agency which we discuss elsewhere.

In the Chicacole taluk including Narasannapeta the map shows that the Oriya population is negligible. There we made no detailed enquiries though we have received representations from interested parties living in that area, which will be referred to in the paragraph dealing with the Telugu opposition to amalgamation.

The most important area to be considered now is the Parlakimedi Zemindary Taluk; to the South East and East thereof lie the smaller estates, of Tekkali, Pata Tekkali, Nandigam, Tarla, Baruva, Bodorsingi, Jalantra and Mandasa. Still further Eastward there are considerable areas in Surangi, Chikati and the Ichchhapuram Government Taluk which have a preponderating Telugu population, but as the balance is shown as in favour of Oriyas East of Sompeta these latter three areas can be more suitably clubbed with Berhampore Taluk.

The Parlakimedi Estate is owned by an Oriya Zemindar, who is looked up to as the leading Oriya Zemindar of Ganjam partly owing to his family connection with the ancient line of Puri Rajahs. There is an undoubted solidarity among the Ganjam Oriya Zemindars who are interrelated and also bound by numerous ties with the feudatory chiefs and zemindars of Orissa. Although therefore it cannot be denied that the majority of the population of the Parlakimedi Estate is Telugu, we felt that the Rajah's opinion must carry great weight and we considered it incumbent on us to make a more detailed investigation in Parlakimedi than perhaps the percentage of Oriya-speaking people justified.

Parlakimedi town itself is divided between Oriyas and Telugus. Among the Oriyas of the town, where there are important educational institutions and where the majority of the educated people of the Estate is congregated the desire for amalgamation is certainly unanimous. This desire was manifested at an enthusiastic meeting which we attended in the Rajah's College. There was no counter-

demonstration in the town itself though that does not mean that there is no opposition. There has been little or no counter-propaganda anywhere, whereas the numerous amalgamation societies have been most active throughout the district in securing support to their cry for union with Orissa. We made extensive tours in the interior of the estate, to Varanasi in the West, to Uppalada in the North and to Nautala in the South. On our journey to Varanasi we were met at various places by demonstrations in favour of amalgamation, but very few of the people knew anything definite about the problem. Those who had any opinion to express at all were in the main anxious about the continued and more extensive use of the Oriya language, for the constant complaint was that Oriya was not understood in Courts, Post Offices and other places where official business was transacted. Though we had repeated complaints about educational disabilities we found that in proportion to the population the Elementary Schools had in fact a very fair number of Oriya teachers. The villages along the Varanasi road are very mixed in character. Some are almost purely Telugu, some largely Oriya, and in many the proportion of Telugus to Oriya is about half and half. Often the Oriyas claimed a preponderance of Oriya-speaking houses in their village, though we found on closer enquiry that in fact the Telugus were equal to if not greater in number than the Oriyas. In one village Minigam where Telugus were in a large majority they knew nothing about amalgamation and cared nothing. The headman was indifferent and said that if the Taluk was transferred provided they kept their land they would be quite content. At Kharigam the Telugus were definitely opposed to amalgamation, but close by at Kharoda one Telugu said distinctly that he wanted amalgamation. In Varanasi itself we met the first definite counter-demonstration. The headman claimed the country as Telugu country into which Oriyas had immigrated while the Oriyas made the usual counter claim.

Southwards from Parlakimedi the population becomes more and more Telugu, but opinion is for the most part non-existent or indifferent.

On our tour northwards we found a certain amount of opposition from Telugus, and by chance in a few cases complete ignorance among some Oriyas. In fact where there had been propaganda there were demonstrations, where there had been none there was indifference.

Our conclusion as far as Parlakimedi is concerned is that the educated Oriyas desire amalgamation, and that though the majority of the inhabitants of the Estate are Telugus, they really do not care much what Government they are under provided they keep their lands. Comparatively few Oriyas know Telugu, the language difficulty for them is, therefore, real. But very many of the Telugus know Oriya, they are by common consent more intelligent, more pushing and better cultivators, more capable of adapting themselves to possible changes, and therefore less likely to suffer from the comparatively small inconveniences which form the burden of the Oriya complaint. In fine, if the major portion of

Ganjam including most of the Zemindari areas is taken from Madras it is only natural that the Parlakimedi Estate should go with the majority, and we cannot find that the Telugu inhabitants anticipate much inconvenience from the possible change.

In Tekkali, there was a very noisy Oriya demonstration, in spite of the fact that the Telugus are in the majority throughout the Estate and the neighbouring small Zemindaries. Local bodies are clearly controlled by Telugus and the local Christian Mission is a Telugu Mission, and not an Oriya one. But the Zemindars are Oriyas, though there are a few so called "Malukdars" purchasers of small estates, who are Telugus. There was also an Oriya demonstration at Palasa close to Tarla led by the Zemindar, and at Mandasa we received addresses and deputations under the aegis of the Mandasa Zemindar. One interesting petition was presented to us at Mandasa from a "Kampo". He claimed to be an Oriya and favoured amalgamation though he himself knew no Oriya. He belongs to the caste common in Ganjam, claimed by the Telugus as a Telugu caste called "Kapu" and by the Oriyas as an Oriya caste called "Kampo". One Tamil Brahmin, a native of Mandasa, also favoured amalgamation with Orissa in the hope of escaping the Brahmin non-Brahmin controversy which at present dominates the political atmosphere of Madras.

Our conclusions for the area up to and including Mandasa and Baruva are the same as for Parlakimedi.

7. *Area where population is 50 per cent. to 75 per cent. Oriya.*—According to the map this area begins in the neighbourhood of Ichchhapuram and Chikati and includes the large commercial centre Berhampore, the most important town in the district. A map prepared from census figures compiled taluk by taluk cannot pretend to minute accuracy. In reality the inhabitants along the coast even further north-east than Berhampore are largely Telugus, and in Berhampore town itself there are more Telugus than Oriyas, but inland the percentage is much more in favour of Oriyas and it is obvious that no line of demarcation within this area is feasible.

At Ichchhapuram we received addresses and deputations from Ichchhapuram town and taluk, Surangi Zemindary and Jarada. Clearly the educated Oriyas want amalgamation with Orissa for reasons social, religious and political, but the ordinary people, as Sriman Lal Mohan Patnaik, President of the local Oriya Samaj, said, are merely anxious about the use of the Oriya language in Courts and other offices. One complaint in particular was brought to our notice in Ichchhapuram to the effect that, although the Oriyas in the union area numbered 4,000 as against 6,000 Telugus, the Wards were so jerrymandered that the Oriyas could not exercise their full voting power. It was also admitted that Oriyas took little interests in local politics and by reason of their ignorance and indifference were easily persuaded to vote for Telugus.

In Chikati Estate, the proportion of Oriyas is above fifty per cent.; to the north the people are almost entirely Oriyas, and southwards they are largely Telugus. We heard four deputations at

Chikati, two from local, social and political association, one from the Koronos' Association and one from the Amalgamation Committee. All asked for amalgamation but there was a marked inclination to avoid a definite pronouncement regarding the possibility of amalgamation with Bihar and Orissa as opposed to amalgamation with a separate Orissa province. The Koronos' complaint is that their hereditary vocation being clerical and the Telugu influence being paramount in Government service they have to learn Telugu for official purposes and are losing their Oriya identity. A fairly well educated Brahmin of Chikati who knew no English told us he did not know what was the capital of Bihar; a Bhandari who had passed the School Final Examination of the Madras University did not know where Patna was. During a morning's drive northwards from Chikati we questioned several local villagers. Many knew nothing of the agitation, others told us the usual story about the difficulty of writing letters and understanding notices in Telugu.

Berhampore is at present the headquarters of the "Amalgamation Committee" which is responsible for all the recent propaganda. The Committee was specially formed as a sub-committee of the Utkal Union Conference for the purposes of the present enquiry. Naturally, therefore, we received several influential deputations at Berhampore and the mass meeting which was attended was most enthusiastic. We also heard the opinion of the Telugus who constitute the majority of the population in Berhampore town itself. That will be dealt with in a separate paragraph. Addresses and individual statements of importance will be found in Enclosure 'B'.*

I. The Amalgamation Sub-Committee appeared before us first. It is an offshoot of the Utkal Union Conference which was started in 1903 after the Ganjam National Conference of 1901. The original history of the Conference movement will be found in the statement of Zemindar of Khallikote (Enclosure E-2).* It is representative of all the Oriyas of the district and one of its Vice-Presidents is Sriman Vikrama Deo of Vizagapatam. The arguments advanced by this Committee and the other deputations are summarised in para. 10.

II. We also heard a deputation from the Ganjam District Association, a political body which formerly included Zemindars among its members, but now has none, owing to the fact that the activities of the leaders of the association favour the interests of the raiyats at the expense of the Zemindars.

III. The Oriya members of local bodies sent a deputation under the leadership of the Vice-President of the District Board.

IV. The Oriya Christian Community of Berhampore was represented.

V. The Congress Committee sent one representative Sriman Niraujan Patnaik, President of the Utkal Provincial Congress Committee.

VI. The Utkal Ashram is a social organisation.

VII. Teachers and Students expressed their views which are summarised in the notes prepared by Sriman S. Gantayet and filed as Enclosure B-III (4).*

VIII. Kavirajas and Pandits expressed their views in written memoranda.

IX. The Raiyats' Association represents cultivators and land-owners under Government. It is a recent formation called into being largely for the purposes of local election campaigns.

X. Finally we had a deputation of Oriya ladies who ordinarily do not appear in public at all. They pleaded that the very fact of their appearance before us was eloquent proof of their anxious longing for amalgamation.

These deputations expressed the views of the enlightened Oriyas of Berhampore and the surrounding area and were unanimous in favour of amalgamation. We gathered that they preferred a separate Orissa province, but were on the whole in favour of union with Bihar and Orissa for the time being in the hope of securing their ultimate object at a later date. There were nevertheless several individuals both at Berhampore and elsewhere who stated that it was immaterial to them what Government they might be under provided all Oriyas were under one Government.

From Berhampore we made two distant tours into the interior. The first took us to Purushottapur just north of the Rushikulya river north-eastwards from Berhampore. We visited several villages and talked with several raiyats by the road-side. It was amusing to find one Oriya who thought we had come to enquire about what he called the "Gandhi Raj". There are colonies of Telugus in this direction but most of the people are Oriyas, and as propaganda did not appear to have been very vigorous in the neighbourhood we had no demonstration. At Purushottapur there is a Deputy Tahsildar Magistrate who is a Telugu. He showed us depositions recorded by him in Oriya, but he only seems to have adopted this habit recently though he spoke Oriya well enough.

The second tour was to Digupudi in the Bodokimedi Estate and to Patapur in the Sanokimedi estate. Both at the road-side and at the two centres mentioned we had demonstrations and addresses. Patapur is almost entirely Oriya. One Oriya Brahmin from an outlying village appeared to be entirely ignorant about the question, but in general the desire for amalgamation was unanimous.

S. Area containing 75 per cent. and more Oriya-speaking population.—The area for consideration in this paragraph includes the northern part of the Berhampore Taluk, the Aska and Surada Taluks with the estates of Dharakote, Sergada and Bodogoda and the Malukdari villages round Aska, the Ghumsur Government

Taluk, the Chatrapur Government Taluk, the estates of Khallikote and Atagada, and the small estates of Biridi, Humma and Palur. We received road-side demonstrations everywhere and addresses and deputations at Aska, Dharakote, Sergada, Surada, Russellkonda, Chatrapur, Rambha, Khallikote, Kudala and Boirani. Very little comment is needed for wherever any opinion was expressed at all it was distinctly in favour of amalgamation. The opinions of the Zemindars and Malukdars are dealt with elsewhere and the arguments of the educated leaders are summarised in paragraph 10.

One or two minor points deserve mention. It was admitted by more than one educated Oriya that the masses had really no opinion on the matter until the question was explained to them by the leaders of the agitation. That is no doubt perfectly true; but it is also true that the ordinary raiyats experience the same language inconveniences as have been described in dealing with Parlakimedi and other areas. They have willingly subscribed their names or thumb marks to the numerous printed *mahazars* we have received, and they do in a vague sort of way hope for a millenium, little as they may understand the reasons which the leaders put in their mouths.

In the Ghumsur Taluk there are many Khond villages. Probably the Khonds there have adopted many Oriya customs, and are better acquainted with the Oriya language than the Khonds of the Agency. At any rate, they cannot be expected to have much to say one way or the other.

There is an important class of merchants throughout the area called Kalinga Komities. Our own enquiries in the interior villages satisfy us that though this caste was in origin Telugu the vast majority of them have lost their Telugu identity and speak and write Oriya almost exclusively and live on intimate terms with the Oriyas among whom they are settled. Some leading Kalinga Komities of Berhampore appeared with the Telugu deputation and strongly opposed this view. But in Berhampore though the Telugu element is strong, the Komities of the interior have trade connections with the big merchants of Berhampore and even the latter keep most of their accounts in Oriya.

9. *The Ganjam Agency.*—The first representative of the Ganjam Agency whom we met was the Bisoi of Gumma. He came to see us at Parlakimedi. We gathered that he was in favour of amalgamation with Orissa, but his ideas on the subject are nebulous. The usual claim was made at Parlakimedi that the Savaras, the aboriginal inhabitants of the southern part of the Ganjam Agency, were gradually becoming Oriyas in language and customs. It is certainly true that in the Agency schools in Savara country Oriya is the language of instruction; on the other hand we found that in the Parlakimedi Estate many of the so-called "Kapu" Savaras, who have abandoned their old language, dress and customs have in actual fact adopted Telugu and know no Oriya. That there is any affinity between Savaras and Oriyas is absurd. Propinquity and the language of the local traders and the local market centres will decide

what language will in the end oust the aboriginal dialects. These remarks apply equally to the claims put before us at Mandasa, Ichhapur, Chikati, Bodokimedi, Surada and Russellkonda. We expected to receive at Surada statements from some of the more important inhabitants of the southern Khond Agency, but the Zemindar of Korada alone sent us an expression of his opinion.

A visit to the interior of the Ghumsur Udayagiri Taluk completed our enquiry in the Ganjam Agency. Naturally the ordinary Khond cultivators proved to be entirely ignorant of the meaning of "amalgamation". It was perhaps surprising that in a large Khond village Kilikia within 3 miles of Udayagiri Mr. Duff could only find two Khonds who claimed any knowledge of the Oriya language, but that village happened to have no school. Where there are schools, though Khond is still really the sole language of the people, there must be an increasing number of hillmen who are acquainted with Oriya. The Kilikia village head's ideas on the subject were typically expressed in the words "if we have to go to Cuttack we shall die: if you join us with Cuttack we shall run away".

In the Ghumsur Udayagiri Taluk many of the "Muttah" heads are themselves Khonds. The Linepada "Moliko" whose village lies on the borders of Phulbani, expressed an emphatic dislike of the Phulbani administration. His neighbour, the Oriya "Bisovi" of Koinjore, on the other hand was in favour of amalgamation. Representatives from the Balliguda Taluk also came to Udayagiri. The patros of Mahasingi and Budaguda preferred to stay as they were, but said that if no changes were made in the administration they did not mind what Government they were under. The old Patro of Simonbadi, Iswara Patro, who though an Oriya prefers to speak Khond, was definitely against amalgamation. The Patro of Balliguda, who had attended the public meeting at Russellkonda, was in favour of it.

In fine the great majority of the inhabitants of the Ganjam Agency are not Oriya either in language or in customs. The Savaras are Kolarians and the Khonds are Dravidians. Only an infinitesimal few have any idea of what amalgamation means and of these few many are indifferent. Nevertheless their gradually developing intellectual and trade relations are with the plains of Ganjam. If, therefore, the plains of Ganjam are to be amalgamated with Orissa the Agency tracts must go with them, and the transfer is not likely to be a matter of any real concern to the inhabitants provided they are allowed to retain their existing peculiar customs and form of administration.

10. *Reasons given for the desire for amalgamation with Orissa.*—It is not possible, neither is it necessary, to deal separately with the numerous addresses, statements of deputations and representations of individuals which have been received. It will, however, be useful to summarize the more cogent arguments and opinions put forward in them as reasons for the desire of the Oriyas for amalgamation with Orissa.

(1) Administrative difficulties.

- (a) There is a deficiency of Oriya officers in superior grades of Magisterial and other services. It has been pointed out that there is at present only one Oriya Deputy Collector in the province, and there are no Oriyas in the superior grades of the Police and Forest Services, Telugu Officers posted as Magistrates, Tahsildars, etc., in Oriya-speaking tracts very frequently do not know Oriya and the quality of their work thereby suffers and Oriyas are put to much inconvenience, even where the Court language has been officially declared to be Oriya.
- (b) In spite of orders to increase the number of Oriya ministerial officers there is still a vast preponderance of Telugu clerks in all Government offices in the Ganjam District.
- (c) Notices and summonses, even when printed in Oriya, are frequently filled up in the Telugu language, which is not understood by the people. Many instances of this were shown to us.
- (d) Postmasters and postal peons are mostly Telugu and frequently cannot read Oriya: they have to get the Oriya addresses of letters translated into Telugu before they can deal with them.
- (e) Canal officials are mostly non-Oriya and their want of knowledge of Oriya puts the raiyats to great difficulty in obtaining water.
- (f) The distance of the High Court at Madras is a great handicap to the litigant public and the absence of Oriya-knowing lawyers at Madras necessitates appellants taking with them at great cost pleaders or other interpreters from Ganjam. These difficulties will disappear after amalgamation with Orissa when the Oriya-speaking tracts will come under the jurisdiction of the Circuit Court at Cuttack.

(2) Difficulties of local bodies.

- (a) The representation of Oriyas is inadequate in areas where the population is mixed. The Municipality of Berhampore and the Union Board of Ichchapuram were instanced as having been so divided into mixed wards that it is difficult to elect Oriya representatives. It is asserted that by a redistribution of ward boundaries the towns could be easily divided into Oriya and Telugu areas, and Oriyas would then have a fair chance of electing their own Commissioners.
- (b) Local Boards which are predominantly or entirely Oriya do not get sympathetic consideration of their requirements from Telugu Ministers who are inclined to favour demands from Telugu bodies.

- (c) Notices, receipts, etc., issued by local bodies whose Chairmen and Officers are Telugu are printed in that language and are unintelligible to the Oriya. Some forms used by Taluk Boards in purely Oriya areas are in Telugu and English. They are issued from Madras, and the Boards have not been given power to have their own forms printed in Oriya.
- (d) Debates in mixed Boards are conducted in English and have then to be explained in Oriya and in Telugu to Members who do not know English. This causes much waste of time and misunderstanding.
- (e) Owing to racial jealousy between Telugu and Oriya members of mixed bodies much time is spent in useless argument. The Telugus do not want the Orijas particularly to benefit by any measure and the Orijas do not want the Telugus to benefit and in the result little is done and the public service suffers.

(3) Co-operative Credit Societies.

These are handicapped in Oriya areas by the fact that the Central Banks are entirely Telugu and the Superior control of the Societies is also Telugu. The forms issued are also in that language: the president of the Aska Co-operative Union complained that he had not even got Telugu forms: those issued to him were in Tamil.

(4) Oriya Christian Community of Berhampore.

A deputation of this community interviewed us at Berhampore and personally represented their disadvantages which are also stated in Enclosure B-III (2).^{*} The headquarters of this community is at Cuttack, their leaders are residents of Orissa; and the bulk of the Oriya Christians, some 15,000 are in Orissa, as against about 1,000 in Ganjam. The Mission High School is located in Cuttack. The Ganjam Christians emphasize their social, educational and religious difficulties caused by the administrative separation of the district from Orissa.

(5) Difficulties in respect of Education.

These have been emphasized at great length by all classes; the assertion is that owing to these difficulties the Orijas as a people lag far behind their Telugu neighbours in education and are unable, partly on that account, to benefit by such concessions as the Government of Madras has granted them. A summary of the principal disabilities is contained in the note furnished by the deputation of teachers and students of the Khallikote College at Berhampore [Enclosure B-III (4)].^{*}

- (a) Teachers in the higher class schools are mainly Telugu. For example in the Khallikote College at Berhampore there is only one Oriya teacher and the Managing Com-

^{*} Not printed.

mittee is mainly Telugu. These teachers do not know Oriya and cannot use that language in explaining subjects to the students.

- (b) There are no text books in Oriya for non-language subjects. Primers used in elementary schools are adopted from Bihar and Orissa but are used in higher forms than those for which they are intended owing to the slower progress of the Madras Oriya children, which is itself a result of deficient training of teachers. Maps are inadequate and incorrect. The map of Ganjam District supplied to Oriya Board Schools and shown to us has the place names rendered into fantastic Oriya. Ganjam Zila is transliterated Gangesari Gila; Ghumsur becomes Ghuseri; and most other names are equally wrong.
- (c) It is difficult for Oriya students to go to Madras for higher education. The distance is great; living there is expensive; there is no Oriya society and Oriya students must live with Tamils and Telugus whose language, customs, and even food are different from theirs, no seats are reserved for Oriyas in the Madras Colleges and they have frequently difficulty in getting admission; as a result very few Oriyas enter the Madras University and Colleges.
- (d) They also have difficulty in getting admission to the Ravenshaw College at Cuttack. The curriculum there differs from that of the Madras University. Sanskrit is compulsory for matriculation but as it is not taught in Madras schools the student must learn it privately; students entering the Ravenshaw College have to spend an extra year there in making up defects. They do not get admission easily; they are not permitted to hold Bihar and Orissa scholarships: degrees from Cuttack institutions are not considered equal to those obtained in similar Colleges in Madras, and it is not easy for them to get employment in competition with Madras passed men. In spite of these disadvantages Oriya students prefer to go to Cuttack when they can secure admission to the Colleges there.

(6) Medical difficulties.

In the Ganjam district there are only two Oriya doctors holding public appointments. One is the District Health Officer who was the first Oriya to obtain the degree of M.B., C.M., from Madras, the other is the Sub-Assistant Surgeon of Aska. District and Taluk Boards have not power to choose their own medical men, but must take officers from the provincial staff who are posted as required by Government. These are nearly all Telugu; few if any know Oriya and they have in consequence much difficulty in understanding the complaints of Oriya

patients who in their turn have no confidence in them. Further the doctors dislike being posted to Oriya tracts and their constant desire for transfer gives much trouble to the Boards.

(7) Deterioration of language, customs and manners.

(a) It is everywhere asserted that owing to the influence of Telugu and to inadequate education the Oriya language as spoken in Madras is rapidly deteriorating, and in vocabulary, grammar, and pronunciation is inferior to that used in Orissa and not readily understood by the people of Orissa. Madras has in recent decades produced no Oriya literature of importance. We were shown extracts from the Ganjam District Gazette, printed in Oriya in the Collector's office, in which the Oriya used was almost unintelligible. It is the universal hope that this degradation of language will be checked by amalgamation of the Oriya tracts of Madras with Orissa.

(b) The customs and manners of the Oriyas differ fundamentally from those of the Telugu and they are unable to mix socially. Their food differs. Their religious festivals have nothing in common and the Oriya holidays are very inadequately recognized in the Madras Calendar. The Brahmin *versus* Non-Brahmin problem which exists in the southern part of the Presidency has no application to the north but the influence of that movement has results unfavourable to the Oriyas.

(8) It is generally admitted that the Government of Madras and the district officers of Ganjam have in the past 15 years or so done their best to make conditions easier for the Oriyas by granting them concessions such as the introduction of Oriya as the sole or an alternative Court language in predominantly Oriya Taluks, the direction that a greater proportion of Oriyas be employed in Government offices in such Taluks, the nomination of more Oriya members to local bodies, the reduction of fees to Oriya schoolboys. But it is also asserted, and with considerable reason, that these concessions are practically dead letters owing to the continued influence of Telugu officers and employees. It is feared that under the Reformed Government further concessions will be unobtainable and those now in force will cease to exist. As Sriman Hari Hara Panda of Aska put it "Hitherto the Oriyas had their difficulties smoothed down by sympathetic officials but now as a result of diarchy probably no remedy is available and the approach to Government is blocked. Oriyas as a separate race will disappear in Madras in course of time, and the more the Indianization of administration the more will be the sufferings of the minority. The so-called Reform Scheme has killed our aspirations and damped our hopes. We urged at the time the Reforms were under consideration that the union of the Oriyas was an essential preliminary, otherwise we anticipated the present troubles."

11. *Opposition (Enclosure F).**—The terms of our reference are so strictly limited that we might justifiably have refused to consider any reasoned representations from individuals or associations who do not represent the Oriya-speaking people of Ganjam and Vizagapatam. We have ourselves consistently avoided the expression of any opinion regarding the feasibility or desirability of "amalgamation." While therefore we did enquire into the opinion of Telugu inhabitants in areas where the population was mixed, we are not concerned to enter into a detailed examination of the arguments put forward by such bodies as the Ganjam Defence League against amalgamation however cogent they may be. These arguments will be for others to consider and decide on. For the purposes of the present enquiry it is enough for us to enumerate the more important areas, societies and individuals who have expressed an adverse opinion, and to refer briefly to such of their statements and arguments as suggest that there is no genuine desire for amalgamation:—

- I. At Tekkali the educated Telugus have expressed their dislike of the proposal.
- II. At Varanasi in Parlakimedi Taluk we had a counter-demonstration and there we heard from the ordinary people some confirmation of the opinion expressed by the Ganjam Defence League that the Oriya claim to Ganjam as being from of old an Oriya and not a Telugu country is historically incorrect. Elsewhere in Parlakimedi some Telugus expressed dislike of the idea of amalgamation.
- III. In Aska the Malukdars, who are Telugu landlords of some 50 villages, appeared in deputation to assert their opinion. They were supported by a certain number of Telugu Komiti and Muhammadan traders. They presented us with some Oriya signatures to a counter-petition, but the value of these signatures is not beyond dispute.
- IV. One or two Muhammadans of Russellkonda also objected to interference with existing conditions.
- V. At Berhampore an influential deputation of pleaders and merchants stated their objections at length. They also gave figures to show that the population of Ganjam as a whole is in fact about 50 per cent. Telugu, and they asserted roundly that the present agitation is engineered by interested parties who have not secured the considered support of the masses. That the ordinary raiyat is in the main content and unconcerned is probably true, as we have already pointed out, but we have also given our grounds for the opinion that there is a considerable feeling of discomfort and a growing desire for something new even among the uneducated. Whether there will

be an equal or a stronger agitation among Telugus if amalgamation with Orissa is effected it is no business of ours to consider.

VI. A few educated Oriyas have opposed the movement, but none of them have much influence.

VII. In Chatrapur we heard one or two individual counter-opinions.

The conclusion is that there is a strong feeling among educated Telugus against amalgamation with Orissa. A certain number of Telugu landlords anticipate difficulty with their tenants if amalgamation eventuates. Telugus insist that the Oriya masses are indifferent, and are in fact content as they are.

12. *Summary.*—Our enquiry has shown that there is a genuine longstanding and deepseated desire on the part of the educated Oriya classes of the Oriya-speaking tracts of Madras for amalgamation of these tracts with Orissa under one administration. By many we have been informed that it is immaterial whether that administration be Bihar and Orissa, Bengal, or Madras; on the other hand there is a distinct tendency on the part of some to regard amalgamation as a preliminary to the formation of a separate Orissa; the opinions of some of the Zemindars on this matter have been referred to in paragraph 5 above.

It seems doubtful whether the masses have had knowledge of the question for any length of time and it is probable that the enthusiasm which manifested itself in many of the villages we passed through was the result of propaganda started just before our arrival by the Vizagapatam and Ganjam Amalgamation Committee which through local branches and volunteers organized demonstrations and collected signatures throughout the country to petitions for amalgamation. But however that may be it is unquestionable that wherever the Oriya raiyats have learned something of the matter they are entirely in favour of amalgamation. The fact that some 106,818 signatures have been forwarded to us from practically every Oriya village in Ganjam and a large number in the Vizagapatam district is significant as showing how far the movement for amalgamation has spread. We received also 2,873 signatures of Oriyas of Ganjam and Vizagapatam, now living Calcutta, Rangoon, Kharagpur, Madras and elsewhere, who desire the union of their home-land with Orissa. It must further be noted that the fact of our making this enquiry has given rise to the belief in the minds of the more ignorant that amalgamation is about to be granted, and we were sometimes asked when it would become a reality. Our enquiry was welcomed by every class of Oriya throughout the area visited and from the Zemindars' Association, from the public in addresses presented, and from deputations we received expressions of thanks to the Government of India for having appointed a Committee to ascertain their desire.

13. In conclusion we desire to place on record our appreciation of the assistance we received in making our enquiry from the Maha-

raja of Jeypore and from the Zemindars of the Ganjam district to whose courtesy and hospitality we owe much; from the various local Societies and from the Amalgamation Committee of Berhampore whose Vice-President Sreeman M. S. Panigrahi did all in his power to facilitate our tours. Our thanks are also due to the District Collector of Ganjam, Mr. Galletti, to the Divisional Officer of Berhampore, Mr. Crombie and to the Government Officers of the various Taluks visited, for the interest they took in our work and the ready help they gave us.

C. L. PHILIP.

A. O. DUFF.

The 26th December 1924.

APPENDIX VI.

Statement prepared by the Government of Madras on the revenue and expenditure of the Ganjam district.

Head of account.	Average receipts for the last three years for the whole district.	Average receipts for the last three years for Chilencole taluk.	Average for the last three years.				Average disbursements for the last three years.	
			Total for Tekkali, Sompeta, Parlakimedi taluks.	Details of column 4.				
				Tekkali.	Sompeta.	Parlakimedi.		
1	2	3	4	5	6	7	8	
A.—CENTRAL.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	PROVINCIAL. Rs.	
II.—Income tax .	6,41,366	18,023	44,395	10,031	8,921	25,443	5. Land Revenue. 1,24,160	
IV.—Opium (Average for two years only is noted, receipts for 1925-26 having been included in provincial revenues).	1,29,331	6,052	16,953	4,538	4,878	7,507	6. Excise . 49,894	
XXVI.—Miscellaneous.	55	...	...	...	...	...	7. Stamps . 12,459
XXVII.—Currency .	74	...	...	...	...	...	9. Registration. 58,436
XXXIII.—Superannuation.	2,942	122	55	...	55	...	15. Miscellaneous Irrigation expenditure. 72,091	
Total .	7,73,818	24,197	61,483	14,569	13,854	33,010	19. Interest on ordinary debt. ...	
B.—PROVINCIAL.							22. General Administration. 8,40,359	
V.—Land Revenue.	23,72,076	4,18,788	2,08,290	77,376	35,525	95,389	23. Audit . 315	
VI.—Excise .	11,59,271	1,60,721	3,47,049	1,35,573	1,38,223	73,848	24. Administration of Justice. 1,09,803	
VII.—Stamps .	5,55,928	1,04,012	31,590	4,790	17,796	9,004	25. Jails and Convict Settlements. 49,005	

Statement prepared by the Government of Madras on the revenue and expenditure of the Ganjam district—contd.

Head of account.	Average receipts for the last three years for the whole district.	Average receipts for the last three years for Chicacole taluk.	Average for the last three years.				Average disbursements for the last three years.	
			Total for Tekkali, Sompeta, Parlakimedi taluks.	Details of column 4.				
				Tekkali.	Sompeta.	Parlakimedi.		
1	2	3	4				5	6
	Rs.	Rs.		Rs.	Rs.	Rs.		PROVINCIAL Rs.
B.—PROVINCIAL								
—contd.								
IX.—Registration.	86,620	11,515	6,839	1,809	1,480	3,550	26. Police	6,47,898
XIV.—Irrigation	1,747	1,300	..	—	...	...
XVI.—Interest	25,589	2,817	323	170	23	126	31. Education,	720,230
XVII.—Adminis- tration of	33,361	3,943	2,320	463	632	1,225	32. Medical	1,00,715
Justice.	5,560	161	33	1	...	32	33. Public Health.	35,540
XVIII.—Jails and Convict settle- ments.	12,250	806	602	163	127	317	34. Agriculture	37,042
XIX.—Police	3,026	107	16	1	1	14	35. Industry	5,502
XXI.—Education	5,149	106	140		22	120	37. Miscella- neous.	5,226
XXII.—Medical	3,087	37	50	16	2	32	41. Civil departments.	2,74,957
XXIII.—Public Health.	2,777	343	9	9	...	...	43. Famine relief.	7,911
XXIV.—Agriculture	7,281	270	609	271	310	28	44. Territorial and political pensions.	235
XXV.—Industries	8,415	1,312	551	126	108	320	45. Superan- nation allowances and pension.	1,21,863
XXVI.—Miscella- neous Depart- ments.	12,631	11,201	189	8	17	114	46. Stationery and Printing.	9,252
XXX.—Civil Works	5,100	17	185	23	...	162	47. Miscella- neous.	3,116
XXXIII.—Superannu- ation.	5,829	352	72	15	21	36	52. Extraordi- nary charges.	5,979
XXXIV.—Stationery and Printing.	9,890	—205 (Minus)	181	—27	—120	331		
XXXV.—Miscella- neous.	Cash remit- tances repre- senting re- ceipts on account of Salt, Forest and P.W.D.	1,01,52,178	2,47,626	2,26,761	1,07,148	1,122	1,18,491	
	Imperial Bank remittance 70,01,631 Salt . 20,15,089	1,41,07,786	9,04,082	8,20,375	3,27,942	1,05,294	3,03,139	
	Forest 1,01,306 P.W.D. 11,140							
C.—RECEIPTS UNDER LOCAL BOARDS.		21,03,735	2,61,231	40,738	12,492	9,330	18,916	
GRAND TOTAL		1,73,45,330	12,50,300	9,23,540	23,55,003	2,18,478	3,55,065	GRAND TOTAL 78,83,763
								Cash remit- tances. 33,10,962
								2 Expenditure 11,80,904 under Local Boards as per Administra- tion Reports.

APPENDIX VII.

NOTE PREPARED BY AN OFFICER OF THE GOVERNMENT OF BIHAR AND ORISSA ON THE REVENUE AND EXPENDITURE OF CERTAIN PORTIONS OF THE GANJAM DISTRICT.

[Except where otherwise stated the figures are in thousands of rupees.]

A statement of revenue and expenditure in Ganjam was supplied to the Government of Bihar and Orissa with letter No. 2589-A-2, dated the 18th October 1926, from the Chief Secretary to the Government of Madras. It was originally prepared at Chatrapur by the Treasury Department at the request of the Government of India and supplied subsequently to the Bihar Government when one was asked for. Government of India do not seem to have specifically asked for figures relating to provincial revenues and expenditure and there was some misunderstanding as to what was required. Many points arising from the statement actually supplied required elucidation and I was deputed to examine the figures in consultation with the officers at Ganjam and Madras. I arrived at Chatrapur on the 18th March 1927 and collected facts and figures mainly from the Treasury accounts there and also from some of the local offices at Chatrapur and saw the District Forest Officer and Superintendent of Police in this connection. The Collector was out on tour and in his absence the Treasury Deputy Collector and his staff helped me with facts and figures. Some information had also to be gathered from the District Board's office. The Collector sent me some figures showing the heavy liabilities that Bihar would be undertaking in the agency tracts where revenue is practically nil.

2. The facts and figures collected at Chatrapur up to the 24th March 1927 were brought by me to Madras for verification and further elucidation. Here on arrival I saw the Chief Secretary, the Accountant-General, the Secretary and the Assistant Secretary to the Board of Revenue, the Secretary to the Collector of Salt Revenue, the Financial Secretary and his two Assistant Secretaries and also the Commissioner of Income-tax. The Accountant-General's office has verified as far as possible the facts and figures already collected and collected other figures and information where necessary.

3. The following notes discuss the facts and figures relating to each head of account. The figures relating to Central heads of accounts originally supplied were not necessary as they do not affect provincial revenues and expenditure. The income-tax figure shows the collections of the tax and is not what is required for present purposes as the local Government's share depends under the Devolution Rules, on the difference between the standard assessed income of 1920-21 and the assessed income of later years. The figure under IV—Opium relates to cost price of opium which goes to the Central Government. The figure under XXXIII relates to subscriptions to

the Indian Civil Service Family Pension Fund which does not affect provincial revenues. The two other petty items under Currency and Miscellaneous may also be neglected.

4. We are then concerned with the heads shown under "Provincial." The figures there are based on treasury actuals for 3 years ending 1925-26 under each head. Statements have been prepared showing actuals under each head for the 3 years separately (*vide* Appendices I and II). Attempt has been made to arrive at a figure under each head which may be considered as normal having regard to progress of actuals and with reference to the facts gleaned in the course of the enquiry. The standard figure thus arrived at and shown in column 7 of Appendices I and II represents revenue or expenditure, as the case may be, under each head for the Ganjam district as a whole. To make an accurate estimate of expenditure of the excluded areas of Chicacole, Sompeta, Tekkali and Parlakimedi is difficult. It has not been possible to work out the cost of establishment in these areas on the basis of the sanctioned scales. In the circumstances the sub-treasury actuals have been assumed to represent receipts and expenditure of each excluded Taluk subject to such corrections as have been found necessary in respect of Forest and Public Works receipts and expenditure which are recorded in the treasury accounts under "Cash Remittances". From the totals of standard receipts and expenditure of the district the treasury actuals for the excluded areas have been deducted and a rough idea obtained of the probable receipts and expenditure of the taluks likely to be transferred.

5. It may be noted at once that the figures under "Cash Remittance" both on the receipt and expenditure side of the statement received from Madras are misleading. These include Imperial Bank and Salt Remittances which do not affect Provincial revenues and expenditure. The only portion of the figures shown under "Cash Remittances" with which provincial revenues are concerned, is relating to Forest and Public Works which appears at first there in the treasury accounts and is ultimately transferred to the proper revenue or expenditure head at head-quarters. On the advice of the Accountant-General, Madras, I have omitted them altogether from consideration for present purposes.

II—Taxes on Income.

6. The statement originally supplied does not give the Provincial share of the tax allotted to Ganjam.

From the office of the Commissioner of Income-tax the following figures were collected:—

	Lakhs.
1. Assessed income for 1920-21 in Ganjam (approximate) .	37
2. Assessed income for 1924-25 in Ganjam (approximate) .	34½
3. Assessed income for 1925-26 in Ganjam (approximate) .	43

The assignment at three pies on the excess over 37 lakhs under Devolution Rule should be 9 in 1925-26. There could not have been

any assignment for Ganjam in the preceding year as the assessed income for that year was less than 37 lakhs. Roughly 9 may for present purposes be taken as the standard for the district as a whole.

V—Land Revenue.

7. (1) It will be seen from the extract from the calendar of Land Revenue Settlement corrected up to 30th June 1925 that the Settlement now current will not be due for revision in any taluk before 1939 and in many taluks not till 1943. "Demand prior to introduction of Settlement" is shown in the extract from the Board's report on Survey and Settlement and Land Records operations for 1924-25 as 6,66 whereas demand of Fasli 1333 (*i.e.*, 1923-24) was 11,36. The recent decision of Government based on a resolution passed by the Legislative Council to limit the maximum enhancement of assessments at resettlement to $18\frac{3}{4}$ per cent. is likely to retard the growth of revenue under this head.

(2) The following information was collected from the Assistant Secretary to the Board of Revenue about the land revenue system.

"The jama proper of raiyatwari lands is the sum total of assessment of all occupied lands, *i.e.*, lands included in the holding of raiyats. This is practically fixed for the years for which the settlement is current.

"Wet land has a single crop on which a consolidated land revenue and water rates are collected. This is called consolidated wet assessment. The occupiers of these wet lands are entitled to take water from the Government source of irrigation under which they are registered.

"Dry lands are not entitled to water from any Government source. But when water is available the holders of such lands apply beforehand for water and can irrigate the lands with permission of the authorities. When thus permitted the raiyats pay single water rates in addition to and apart from the dry land assessment. This is not a consolidated rate. If water is used without permission penal water rates are levied. The holder of dry land systematically irrigated can apply to the collector to transfer his dry land into wet land, *i.e.*, he can have a consolidated land revenue and water rates and by paying the higher consolidated rate he becomes entitled to water without any further permission".

(3) Besides the elements of variation given in clause (2) above, Sevai Jama which arises from cultivation of unoccupied Government lands and is included under the head "Miscellaneous Land Revenue receipts" is variable. Another item that is variable is water rates both on wet lands for single crop and dry land irrigated. It depends on the seasons.

(4) In an adverse season when for reason beyond his control the raiyat does not get water and is unable to raise any crop on his wet land Government grant him remission of assessment. In ordinary years the remission amounts to 10 in Ganjam but in the year 1919

when there was the last severe famine in the district remission amounted to 1,32, i.e., the *net extra* remission came up to 1,22.

(5) As stated in paragraphs 72 and 73 of the budget memorandum for 1927-28 the portion of land revenue due to irrigation is shown in full under V—Land Revenue. But “direct receipts” collected by the Irrigation Department which comprise rent of buildings, navigation fees and receipts accruing from the sale of water for purposes other than irrigation, such as water supplied to towns and mills and from the sale of the produce of canal banks and plantations, are shown under XIII—Irrigation net, i.e., subject to deduction of working expenses.

(6) Cess levied in zemindari and inam lands and raiyatwari cess appear to be collected with land revenue.

(7) It seems clear from what is stated in clauses (1) to (3) above that there is hardly any possibility of expansion under this head till the year 1940 while there is the risk of large remission of revenue in the event of famine, to which the district as a whole is said in paragraph 15 of the Statistical Atlas to be liable, the more serious of them occurring in 1865-66, 1888-89, 1896-97, 1908-09 and 1919.

(a) Looking into the average figure supplied, it appears that the average for three years was incorrectly taken at 23,72. There was a mistake in taking the collection for April 1923 to June 1923 at 19,87 whereas it should have been between 3½ lakhs to 3¾ lakhs having regard to total collections of any year. The calculations are given below:—

1	2	3
	Original.	Revised calculations.
April 1923 to June 1923	19,87	3,67
July 1923 to June 1924 (Fasli 1333)	22,70	22,70
July 1924 to June 1925 (Fasli 1334)	25,05	25,05
July 1925 to March 1926	21,49	21,49
	89,11	72,91
<i>Deduct</i> —Cess levied in zemindari and inam lands for three years ending March 1926	—12,94	—12,94
<i>Deduct</i> —Raiyatwari cesses for three years ending March 1926	—5,00	—5,00
	71,17	54,97
Average for three years ending March 1926	23,72	18,32

(b) Let us now see how the average 18,32 compares with the collections for the fasli year 1333 and 1334 as shown in demand, collections and balance statements at Chatrapur:—

	1	2	3
		Fasli 1333.	Fasli 1334.
Peshkush		4,27	4,46
Shrotrium jodi		49	49
Raiyatwari and Miscellaneous		11,46	12,70
		(13,12— $\frac{1}{3}$ of 500 cess for 3 years, i.e., 13,12—1,66 = 11,46)	(14,36— $\frac{1}{3}$ of 500 cess, i.e., 14,36—1,66 = 12,70)
Other items		11	10
Proprietary estate village service fund		69	68
TOTAL		17,02	18,43

The above seems to support the average of 18,32 worked out in sub-clause (a) above.

(c) The following details, collected from the district budget estimate of Land Revenue for 1927-28 as submitted by the Collector of Ganjam to the Board of Revenue, also seem to support the figure 18,32:—

1	2	3	4	5
	Budget, 1927-28.	Revised, 1926-27.	Sanc-tioned, 1926-27.	Actuals, 1925-26.
Ordinary Revenue—				
Permanently settled revenue (Peshkush)	4,08	4,16	4,30	4,45
Shrotrium jodi	48	49	50	50
Raiyatwari and miscellaneous	12,51	12,70	13,11	13,30
Proprietary estate village service	70	67	69	67
Land cess collected on behalf of local boards	4,86	5,27	5,20	4,13
Deduct—Advances to local boards	—4,89	—5,20	—5,20	—7,46
Total Revenue (ordinary)	17,74	18,09	18,60	15,99
Sale proceeds of waste lands and redemption of land tax	13	13	13	13
Miscellaneous	19	19	19	19
TOTAL	18,06	18,41	18,92	15,91

(d) The Accountant-General's office has independently worked out the average at 18,13 which is very near 18,32 worked out in sub-clause (a) above. I would therefore take 18,32 as the standard figure under V—Land Revenue for the whole district including Chicacole and other excluded areas.

VI—Excise.

8. The figures are given below:—

1	2	3	4
—	1923-24.	1924-25.	1925-26.
Treasury figures . . .	12,17	11,51	12,73
Figures from the Administration Reports (Collections) . . .	12,25	11,52	11,01
Demand . . . . .	.....	11,61	11,13

The Treasury figure (12,73) for 1925-26 appears to include 1,57 for cost price of opium, which goes to the Central Government. Neglecting this, the collections for 1925-26 come to 11,16 and are very near the demand for that year (11,13) and the corrected treasury figure compiled for the Administration Report. The Excise revenue in Ganjam seems to be going down by about half a lakh a year, and it would not perhaps be safe to take the standard at more than 11,25.

Under the new method of accounting, the cost price of opium, which goes to "Central", has to appear both on the receipt and the expenditure side. It seems simplest to ignore this on both sides of the account, and this has been done in suggesting 11,25 as the standard.

6—Excise.

9. (1) There are four gazetted officers of the Excise Department in Ganjam, viz., one Inspector of Excise in Berhampore, another at Chicacole, one at Gumsur Udaigiri, and another at the Aska distillery. The staff seems to be partly under the Collector and partly under the Excise Department.

(2) There was a combined Salt and Excise Staff up to 1923-24, and the cost was shared on the proportion of $\frac{2}{3}$ to Excise and $\frac{1}{3}$ to Salt. The adjustment was made at headquarters. Therefore there are no actuals in the Treasury for 1923-24. The average worked out by the Treasury (50) does not represent the actual position. Treasury actuals in 1926-27 are as follows:—

	Rs.
April 1926	6,287
May 1926	7,858
June 1926	6,681
July 1926	6,478
August 1926	7,119
September 1926	6,500
October 1926	7,050
November 1926	6,139
December 1926	6,597
January 1927	6,856
February 1927	6,881
March 1927 (Estimate)	8,000

The standard may be taken at 82, excluding cost price of opium payable to the Central Government which has not been taken into account in the figure for revenue either.

VII—Stamps.

10. The actuals are:—

	1	2	3	4
	—	1923-24.	1924-25.	1925-26.
Collector's figures		5,18	5,86	5,64
Accountant-General's figures		5,18	4,86	5,64

It will be seen that the Accountant-General's figure for 1924-25 differs by just a lakh from that of the Collector. Whichever figure is correct, there is perhaps no reason to expect less than 5,50 in the future. This does not apparently include anything on account of unified stamps, for which the presidency as a whole gets an assignment of 8,34 from the Central Government. There are 24 districts in the Presidency and $\frac{1}{24}$ th of 8,34 gives roughly 35 per district. Taking the collections and the assignment together we get $5,50 + 35 = 5,85$ which has been proposed for the standard.

7—Stamps.

11. The average worked out (12) represents practically only the charges for sale of stamps. Cost of stamps and plain paper supplied from Central Stores, etc., amounted to 25 for the Presidency as a whole in 1925-26. It has been taken at 84 in the Revised of 1926-27. Roughly $\frac{1}{24}$ th of this would be 3 for Ganjam. The standard may then be taken at $12 + 3 = 15$.

VIII and 8—Forests.

12. (1) The following information was collected at Chatrapur.

(a) The Superior officers of the Department in Ganjam are—

1 District Officer (Indian Forest Service) at Chatrapur.

1 Assistant Conservator (Indian Forest Service) at Russellkonda.

1 Extra Assistant Conservator (Provincial Forest Service) at Berhampore.

1 Special Forest Officer of the Provincial Service at Parlakimedi. (He is independent of the District Forest Officer of Ganjam and he may be placed in charge of the Berhampore range in addition to Parlakimedi Malias from 1st April 1927.)

(b) Most of the reserved forest is in the north, in the Gumsur and Aska taluks. There are scattered forests in the south in the Parlakimedi taluk and Ramagiri—Udaigiri taluk and scrub jungle in the Berhampore taluk. Proposals are under consideration for

reserving forests in the Balliguda Agency. No estimate has been framed yet.

(2) (a) The figures collected at Chatrapur related only to the District Forest Officer's charge. Though most of the revenue arises and expenditure is incurred in his charge, his figures are not exhaustive. The Accountant-General's figures for the district as a whole are as follows:—

1	2	3	4
—	1924-25.	1925-26.	1926-27 up to Feb. 1927.
Revenue . . .	2,03	1,48	1,58
Expenditure . . .	1,75	1,56	1,72

The high revenue figure for 1924-25 is abnormal inasmuch as the Forest Department got credit in that year for the sale in the previous year of timber to the commercial undertaking (saw mill) at Russellkonda. Figures of the year 1926-27, though incomplete, seem to suggest, and the fact that new forest areas in the Balliguda Agency may be reserved also points to the possible growth of forest revenue in the future. Forest revenue in the month of March in the two years ending 1925-26, was about 20. Adding this to 1,58, realized up to February 1927, we get 1,78.

Taking into consideration the interest charges on capital outlay, the Russellkonda saw mill has been working at a loss during the last three years. The contract with Messrs. Parry and Company, for the working of the mill will expire on 31st March 1927, and it remains yet to be decided whether the contract will be renewed. Nothing need in the circumstances be allowed for profit of the saw mill which, if any, would be credited to revenue. There are some indirect charges which are recovered from the commercial undertakings and credited to forest revenue. The amount for the Russellkonda saw mill must be negligible, having regard to the fact that the recoveries for the Presidency as a whole were 3 only in 1925-26.

It will perhaps suffice to take the revenue at 1,78 for present purposes.

(b) It has not been possible to get separate figures of expenditure under 8 and 8A—Forests. Expenditure up to February 1927 was 1,72. Expenditure in March of the past two years was 20 and 27. The expenditure of the current year may come up to $1,72 + 27 = 1,99$, say 2,00.

Apart from this some allowance should be made for the loss on the working of the Russellkonda saw mill. The position of this commercial undertaking appears to have been as follows:—

1923-24.—Loss of Rs. 36,082 after taking into account interest charge of Rs. 23,467, which according to paragraph 47 of Budget Memorandum for 1927-28, is debitable to the internal account of the concern.

1924-25.—Profit Rs. 1,894. But if interest on capital which works out approximately to Rs. 22,291 is taken into account, a loss of Rs. 20,397.

1925-26.—Loss of Rs. 894. But if interest of Rs. 27,128 is taken into account, the loss would amount to Rs. 28,022.

The average loss of the last 3 years comes to 28. The standard of expenditure on Forest may accordingly be taken at $2,00 + 28 = 2,28$, say 2,30.

IX and 9—Registration.

13. The figures do not seem to call for remarks. The average figures may be adopted, *viz.*,

Revenue 87.

Expenditure 58.

XIII—Irrigation and 14—Interest on Irrigation.

14. (1) There are three irrigation systems in Ganjam of which the most important (the Rushikulya system) is in the north. It irrigates the Gumsur, Aska, Berhampore and Chatrapur taluks. The second, known as Ganjam minor river system, consists of two rivers—the Langulya and the Vansadhar in the Chicacole taluk. The third is in Government taluks and seems to be of no very great importance. The systems are described in paragraph 14 of the Statistical Atlas of Ganjam, 1923. For all the three capital accounts are kept.

(a) RUSHIKULYA SYSTEM.

As stated under V—Land Revenue, the water rates appear under V—Land Revenue, and the head XIII—Irrigation gets only direct receipts collected by the Public Works Department for various purposes. These direct receipts are negligible, being between 3 to 4 a year, and working expenses were 53, 90 and 67 in the 3 years ending 1925-26. The figures given by the Works Audit branch of the Accountant-General's office are as follows:—

	2 1923-24.	3 1924-25.	4 1925-26.
Direct receipts	4	3	3
Less—Working expenses . .	53	90*	67
	<hr/> —49	<hr/> —87	<hr/> —64
Interest charges debitable to 14— Interest, on outstanding loans (balance on 31st March 1926 being 47,73)	1,58	1,60	1,60

The above does not apparently include establishment and tools and plant charges of the Department, for which 30 and 2 were debited in the Revenue account of 1925-26. The Accountant-General, Madras, said that there was no whole-time establishment

* (Includes heavy expenditure on repairs on account of cyclone damages).

for Irrigation work in the Ganjam district and these charges may be called *pro rata* charges for the irrigation establishment in the district. As the Executive Engineer and his staff have been allowed for under 41—Civil Works, these *pro rata* charges may be neglected.

(b) GANJAM MINOR RIVER SYSTEM IN CHICACOLE TALUK.

The following figures were supplied by the Works Audit Branch of the Accountant-General's office:—

1	2	3	4
—	1923-24.	1924-25.	1925-26.
Direct receipts	Rs. 112	Rs. 3	Rs. 9
	say nil.	say nil.	say nil.
Less—Working expenses . . .	27	1,12*	29
	—27	—1,12	—29
Interest charges on the borrowed funds debitable to 14—Interest (The outstanding balance of loans being 12) . . . .	...	...	1

The above does not include establishment and “tools and plant” charges for which 14 and 1 respectively were debited in the Revenue account in 1925-26. For the reasons given above, under (a) Rushikulya system, these charges may be neglected as being *pro rata* charges.

(c) GANJAM GOPALPUR CANAL SYSTEM.

The direct receipts and working expenses were less than 1 in the past 3 years and may be neglected. Interest charge debitable to “14—Interest” is nil as no loans appear to be outstanding for capital outlay on this project.

(2) It would seem about $30 + 82 = 1,12$ was spent in 1924-25 on account of cyclone damage repairs. These are abnormal charges and may be left out of account for present purposes. Apart from interest charges, the average loss on these systems may perhaps be roughly taken at 90, viz., 60 under Rushikulya and 30 under Ganjam minor river systems.

(3) For interest charges debitable to 14—Interest we may adopt $1,60 + 1 = 1,61$.

XIV—Irrigation.

15. The irrigation revenue arising from minor works under both the Revenue and the Public Works Departments is booked under V—Land Revenue. Other receipts such as contribution from riyats for particular work or miscellaneous receipts by the Public Works Department are booked under XIV. The amount under XIV realized by the Public Works Department was practically nil during the last 3 years. The only receipts under XIV were realized

*Heavy expenditure due to repairs on account of cyclone.

by the Civil Department for which the average of 2 seems sufficient for a standard figure.

XVI—Interest.

16. The total amount outstanding on account of Class I loans on 1st April 1926 was 3,00 and on account of Class IV loans was 1,09. Besides a loan of 90 was given in 1926-27 to the Ganjam District Board in 1926-27. Roughly 5,00 may be taken as advances on which interest would be received by the local Government. Rate of interest is not the same for all loans. At $6\frac{1}{4}$ per cent. the interest on 5,00 would amount to 31. But Class IV loans would ordinarily bear lower rate of interest in Bihar. The average of 26 may be accepted as the standard.

15—Minor Irrigation Expenditure.

17. This expenditure is apparently incurred both by the Civil and the Public Works Departments.

CIVIL.

From the detailed statement of expenditure on minor works in Ganjam during 1925-26 the following details have been gathered:—

Works expenditure in Berhampore Taluk	25
„ „ in Aska Taluk	6
„ „ in Gumsur Taluk	9
„ „ in Chatrapur Taluk	11
TOTAL	51
„ „ in Parlakimedi Taluk . . . .	...
„ „ in Chicacole Taluk	12
	63
The establishment charges come to about 1 a month, say 12 a year	12
Say	75
	a year.

The actuals examined for 1926-27 up to February 1927 seem to give the same result. They were 61 up to February 1927. The March expenditure on works of the preceding year (1925-26) was heavy (31), while similar expenditure in 1926-27 was more evenly distributed. I would take 14 only for March 1927, and thus get a total of $61 + 14 = 75$ in respect of minor works in the Civil Department. The Board's Report on expenditure incurred during 1924-25 on the up-keep of Minor Irrigation Works also supports the figure of 75, allotment being shown as 77 and expenditure as 75, for Ganjam.

PUBLIC WORKS DEPARTMENT.

The following figures relating to Public Works Department Minor Irrigation works were supplied by the Accountant-General's Superintendent of Works Audit:—

1923-24	.	.	.	.	.	.	.	.	46
1924-25	.	.	.	.	.	.	.	.	41
1925-26	.	.	.	.	.	.	.	.	42
									<u>1,29</u>
Average . . .									43

Taking Civil and Public Works Expenditure together we get a total of $75 + 43 = 1,18$ for a standard.

5—Land Revenue.

18. The average expenditure of three years ending 1925-26 as worked out in the Collector's office is vitiated by the fact that there has been a change of classification and certain staff (*e.g.*, village establishment formerly charged to "5—Land Revenue in 1923-24" is now paid for from "22—General Administration." But the two heads taken together should give a reliable result).

2. There are apparently no gazetted officers in Ganjam whose pay is debited to 5—Land Revenue. The 5—Land Revenue Budget for 1927-28 as proposed by the Collector gives the following figures:—

1	2	3	4
—	Actuals, 1925-26.	Revised, 1926-27.	Budget, 1927-28.
Taluk Establishment, permanent*	33	35	35
Taluk Establishment, temporary .	...	1	1
Allowances	16	16	16
Contingencies	1	2	2
TOTAL .	<u>50</u>	<u>54</u>	<u>54</u>

Details given in the Treasury accounts for 1926-27 suggest that monthly expenditure is about—

	Rs.
Establishment	2,700 a month.
Travelling Allowances and other Allowances . . .	1,300 „
Contingencies	100 „
TOTAL .	<u>4,100 say 49 or 50 a year.</u>

	Rs.
*17 Revenue Inspectors on	60—80
31 Revenue Inspectors on	35—60
1 Tahsildar on	200—300
1 Deputy Surveyor	35—80
1 Draftsman	35—60
2 Peons	12—18
and also clerical staff.	

In view of the fact that Budget of 1927-28 stands at 54 we may take the same figure for our standard.

22—General Administration.

19. (1) The gazetted officers paid from this head are seven in all. Their charges are included in the average, *viz.*,

	Rs.
(1) Collector	2,500 plus Overseas pay £30, Tentage Rs. 50.
(2) Sub-Collector at Berhampore	500
(3) Sub-Collector at Chicacole	1,000 Tentage Rs. 35.
(4) Treasury Deputy Collector at Chatrapur	500
(5) Assistant Agent, Balliguda	500
(6) Revenue Divisional Officer at Gumsur	380
(7) Revenue Divisional Officer at Chatrapur	300

(2) Details collected mainly from the Treasury Account for December 1926 for the Collector's charges are:—

(a) Collectors and Magistrates including Establishment and contingencies monthly—Rs. 5,529.

This does not include Rs. 1,400 drawn by the Collector in Madras and £30 as sterling overseas pay in England. Adding Rs. 1,850, we get monthly expenditure at Rs. 7,379 say 89 a year.

(b) Treasury Establishment—Monthly cost is about Rs. 2,500. Annual expenditure say 30.

(c) Subdivisional Establishment.—There are two Indian Civil Service officers (one at Berhampore and another at Chicacole). There are three other gazetted officers, *viz.*, one at Chatrapur, one at Gumsur (Russellkonda) in charge of Gumsur Division, and one at Russellkonda in charge of Balliguda Division. One of the Indian Civil service officers gets overseas pay in rupees.

Two Indian Civil Service officers and their travelling allowance cost Rs. 2,000 a month, <i>i.e.</i>	24 a year.
Three Sub-Assistant and Deputy Collectors' pay cost Rs. 1,200 a month, <i>i.e.</i>	15 "
Establishments' pay cost Rs. 2,400 a month	29 "
Travelling allowance and contingencies cost Rs. 3,000 a month	36 "

1,04 a year against 1,03 actuals for 1925-26 as given by the Board's Office.

(d) Taluk Establishment.—This head includes pay of Tahsildars and Deputy Tahsildars employed in Government taluks. Their pay costs Rs. 11,500 a month and other charges about Rs. 5,500 a month, *i.e.*, 16 a month or 1,92 a year.

(e) Village Establishment—

(i) Raiyatwari village service.—This head includes Karnams and Assistant Karnams, who are village accountants. Their cost is about Rs. 6,000 a month, *i.e.*, 72 a year against 79 being the actuals for 1925-26 as shown in the Board's office.

Raiyatwari village service also includes " Allowances to district and village officers ", *i.e.*, pay of village Munsifs (headmen), their assistants and their servants. This costs about 11 a month, *i.e.*, 1,32 a year, against 1,46 shown as actuals for 1925-26 by the Board's office.

(ii) Proprietary village service.—This head includes same classes of officers as in raiyatwari areas. Their establishment seems to cost 20 a month or 2,40 a year against 2,46, being the actuals for 1925 as shown in the Board's office.

(f) Process-serving establishment costs as per budget submitted to the Board, 9 a year.

(g) Works expenditure.—Actuals of 1925-26 for works expenditure as shown in the budget of 1927-28 submitted to the Board came to half a lakh. But the actuals of 1926-27 up to February 1927 amount to 57.* Adding to this 12 for works expenditure in March 1926, we get $57 + 12 = 69$ against 68 taken as the Revised Estimate in the Board's office. Perhaps 75 a year would be a fairly safe figure to take under this head.

(3) There is a local audit establishment which costs Rs. 500 to Rs. 700 a month, say . . . 7 a year.

The travelling allowance of the members of the Legislative Council drawn in Ganjam cost Rs. 300 to Rs. 400 a month in 1926-27, say . 4 a year.

11 a year.

(4) Total estimate for the head would then be—

Clause (2) (a)	.	.	.	.	.	.	89 a year.
(b)	.	.	.	.	.	.	30 „
(c)	.	.	.	.	.	.	1,04 „
(d)	.	.	.	.	.	.	1,92 „
							79 „
(e) (i)	.	.	.	.	.	.	1,46 „
(e) (ii)	.	.	.	.	.	.	2,46 „
(f)	.	.	.	.	.	.	9 „
(g)	.	.	.	.	.	.	75 „
Clause (3)	.	.	.	.	.	.	11 „
							<u>9,81 a year.</u>

(5) Taking the heads 5—Land Revenue and 22—General Administration together the estimate works up to—

Land Revenue	.	.	.	.	.	.	54
General Administration	.	.	.	.	.	.	9,81
							<u>10,35</u>

The average worked out in the Collector's office is only $1,24 + 8,40 = 9,64$. We may adopt 10,35 taking 9,81 for 22—General Administration.

XVII—Administration of Justice.

20. The actuals are fairly constant and call for no remarks. We may accept the average of 33 as standard.

24—Administration of Justice.

21. Under the head Criminal Courts there are 4 stationary Sub-Magistrates, 8 clerks, and 12 peons and also one bench clerk and one peon at Berhampore. Excluding “Diet and road money” charges, which are treated as non-voted and for which no estimates are prepared in the district office, expenditure was 18 in 1925-26, 1926-27 and also in 1927-28 (Budget).

“Diet and road money” does not seem to exceed Rs. 2,000 a year. So the total cost of Criminal Courts would be $18 + 2 = 20$ a year.

2. The gazetted staff employed is 1 Judge, 1 Subordinate Judge and 4 Munsifs at Aska, Sompeta and Berhampore.

3. Total charges under “24—Administration of Justice” including Criminal and Civil and Sessions Courts up to February 1927 in 1926-27 amounted to 1,73. March expenditure for the last 3 years was 18. Total estimate would then be $1,73 + 18 = 1,91$. This is very near the actuals of 1924-25 and 1925-26. The average is, however, 2,00, and we may adopt 2,00 as standard.

XVIII—Jails.

22. The figures supplied by the district office do not call for remarks. The average of 6 may be adopted for the standard.

25—Jails and Convict Settlements.

23. (1) The District Jail at Berhampore and the special jail at Russellkonda are under the Jail Department and all other sub-jails are under the District Magistrate.

(2) The actual expenditure for Berhampore and Russellkonda jails according to the Treasury accounts for 1925-26 and 1926-27 was about $25 + 7 = 32$ a year.

(3) Jail manufactures and charges for police custody amounted to $4 + 1 = 5$ in 1925-26.

(4) There are sub-jails under the Magistrate's control at the following places:—

Chatrapur, Chicacole, Narasannapeta, Aska, Tekkali, Sompetta, Parlakimedi, Ichapur, Kondala, Surada, Ramagiri, Gumsur, Udaigiri and Balliguda.

Generally one warder is the only establishment in each sub-jail and their cost is Rs. 2,300 a year. Budget provision for 1926-27 for "Contingencies" of the sub-jails under the District Magistrate was Rs. 10,820. Roughly then, establishment and contingent charges of the sub-jails under the District Magistrate would be $\text{Rs. } 2,300 + 10,820 = \text{say } 13$ a year.

(5) Total estimate under "25—Jails" may then be taken at $32 + 5 + 13 = 50$ a year. This is the same as the average of the last 3 years and may be adopted as the standard.

XIX—Police.

24. The actuals are fairly constant and agree with those given by the Accountant-General's Office. The average of 12 may be accepted as normal.

The question, however, arises whether Bihar will not be expected to take over the Bengal-Nagpur Railway Police in Ganjam and whether they should not appropriate a portion of the contribution made by the railway towards the cost. The amount of contribution received annually by the Madras Government is Rs. 4,652 and half of it say 2 may for present purposes be taken as the share that will go to Bihar. The standard should then be $12 + 2 = 14$.

26—Police.

25. (1) There are apparently one Superintendent of Police at Chatrapur, one Assistant Superintendent at Russellkonda, and one Deputy Superintendent at Parlakimedi. The Treasury accounts for 1926-27 under District Executive Force show monthly expenditure to be about 41 and the figures obtained from the office of the

Superintendent of Police go to support the same figure for monthly expenditure. The details are:—

1	2	3
	Treasury Account.	Police office figure.
Pay of officers	2	2
Pay of police force	27	27
Office establishment	1	1
Allowances	8	7.5
Contingencies	3	3
TOTAL	41	40.5

Say, 4,92 a year.

(2) There are the Talayaris (village police), about 2,100 in number, drawing salaries below Rs. 10 per mensem. They are under the control of the Revenue Department. Their monthly expenditure is about 14 according to the Treasury account of 1926-27. Annual expenditure on account of village police would then come to 1,68.

(3) Total of these charges then comes to $4,92 + 1,68 = 6,60$. Probably there are other classes of expenditure which have not been taken into account in the two classes above. The two preceding years' actuals were in all 6,89 and 6,76. We need not take less than 6,75 for purposes of standard.

(4) The Superintendent of Police said that there was likely to be no important new expenditure in the district, either on revision of pay or increase of staff. There is a building programme of 1,50, but the expenditure is to be spread over many years.

(5) Bihar will probably have to take over the Bengal-Nagpur Railway Police within Ganjam. According to the budget of 1927-28, the cost of this police is 39 a year. If half the cost falls on Bihar, the charge will be about 20 a year. The standard should then be $6,75 + 20 = 6,95$.

(6) I have not taken into account the East Coast special police charges which according to the budget of 1927-28 stand at 1,32 for the whole Presidency. The force is meant to provide protection for the Agencies and the Northern part of the Presidency. There is apparently one armed force in Russellkonda and it is not certain whether Bihar Government will think it necessary to maintain the East Coast police in Ganjam.

XXI—Education.

26. There was apparently some abnormal receipt under this head in 1923-24 when the actuals went up to 7. In subsequent years they have stood at 1 and 1 may be adopted as the standard.

31—Education.

27. (1) The Treasury accounts for 1926-27, show:—

(a) The only secondary schools maintained by Government are for girls and cost Rs. 400 to Rs. 500 a month or say 5 a year. There is, however, a private Kalikota Intermediate College and also a private High School teaching up to S. L. C. Examination at Berhampore.

(b) Primary schools for boys in the Agency tracts are maintained by Government at a monthly cost of 7 to 8. Say 90 a year.

(c) The training schools and classes maintained in the Agency tracts by Government cost Rs. 1,500 a month or 18 a year.

(d) The training schools for masters in the plains maintained by Government cost Rs. 5,500 a month or 66 a year.

(e) The Inspecting staff costs—

(i) In the Agency	1,300 a month.
(ii) In the plains, men's branch	5,000 "
(iii) In the plains, women's branch	300 "
TOTAL	6,600 "

Say 78 a year.

(f) Scholarships cost Rs. 300 to Rs. 400 a month or say 5 a year. Total estimate of expenditure, excluding grants-in-aid, thus comes to 2,62 a year.

(2) The greater part of the expenditure is incurred in the shape of grants-in-aid which were as follows in 1925-26:—

For secondary education	1,14
For primary education	4,02
For special	2
TOTAL	5,18 a year.

This gives a total of 2,62 + 5,18 = 7,80 a year.

(3) But it is doubtful whether the standard should be taken at 7,80. Considering later actuals we find that 11 months' expenditure in 1926-27 under all heads of Education amounted to 7,13. March expenditure in last 3 years was:—

1923-24	1,07
1924-25	1,20
1925-26	1,33

Expenditure in the current year will perhaps amount to 7,13 + 1,33 = 8,46.

(4) The Collector's office told me that new schemes of secondary and vocational education in the Agency areas will cost 10 each

recurring. There will be total non-recurring expenditure of another 10. Taking only the recurring portion (20) and 8,46 already arrived at in clause (3), the standard may be taken at 8,66.

(5) It may be necessary to bring Ganjam into line with other Bihar districts by giving it a Government Zilla school. Also Ganjam students may find Patna too far and may want to take advantage of the educational facilities provided in Madras Colleges at least for some time. This may necessitate payment of contribution to the Madras Government.

XXII—Medical.

28. The Accountant-General's actuals slightly differ from those given by the Treasury and are 2 for each of the three years. We may take 2 as the standard.

Presumably sale of quinine in the malaria-stricken parts of the district might raise the receipts here. But as we realize perhaps only the cost price and hardly any profit is made, nothing need be allowed for it, either on the receipt or the expenditure side.

32—Medical.

29. (1) The staff of gazetted officers employed consists of 1 District Medical Officer and 5 Assistants to the District Medical Officer at Berhampore, Chatrapur, Russellkonda, Parlakimedi and Chicacole.

(2) Monthly expenditure is about 8, apart from grants to local bodies, and its distribution is as follows:—

District Medical Establishment	3
Hospitals and dispensaries	3
Government Medical officers lent to local bodies	2
TOTAL	8

Say, 96 a year.

(3) The following grants to local bodies appear to have been sanctioned in 1926-27 up to February 1927:—

June 1926	4
August 1926	1
November 1926	2
December 1926	1
TOTAL	8

(4) We thus get a total of $96 + 8 = 1,04$ a year. But new dispensaries in the Agency tracts are now being opened at the rate of two a year. Two have been opened this year and eight remain to be opened. Total recurring cost of these dispensaries would be 30 a year. Ultimate total estimate then comes to $1,04 + 30 = 1,34$ which may be taken as standard.

XXIII—*Public Health.*

30. The Accountant-General's actuals differ slightly from the Treasury figures and give an average of 1 which may be taken as standard.

33—*Public Health.*

31. Agency Public Health establishment is under the control of the District Medical Officer. There is only one gazetted officer in the department called District Health Officer (paid by Government). He is in charge of the plains portion of the district and presumably works independently of the District Medical Officer.

The monthly expenditure according to the Treasury account of 1926-27 is between Rs. 2,500 and Rs. 3,000, of which 1 may be taken for the Agency and 2 for the plains. This gives 36 a year. But in view of the increase in the actuals (42) of 1925-26, 42 may be adopted as standard.

XXIV—*Agriculture.*

32. The Accountant-General's actuals are slightly different from those given by the Treasury and accepting the Accountant-General's actuals we may take 1 as standard against the average of 3 worked out by the Treasury.

34—*Agriculture.*

33. There is only one gazetted officer of the department in the district, viz., the Assistant Registrar, Co-operative Societies. There are 2 agricultural demonstrators, who work under the Assistant Director of Agriculture, located outside the district at Vizagapatam. Also there are 7 Veterinary Assistant Surgeons in the district, 3 being attached to hospitals and 4 being touring veterinary assistants. Average of 37 worked out by the Treasury has been verified in the Accountant-General's office and may be accepted for the standard.

XXV and 35—*Industries.*

34. *Receipts.*—Average figure (7) verified in the Accountant-General's office may be accepted as standard.

Expenditure.—In view of the steady growth of expenditure, the latest actuals of 1925-26 which amounted to 10 may be taken as the standard.

XXVI and 37—*Miscellaneous Departments.*

35. The average figures under both receipts and expenditure may be taken as standard.

XXX—*Civil Works.*

36. *Receipts.*—The actuals on which average (13) has been struck represent mainly rent of buildings recovered by Civil officers. Besides these, the Public Works Department realised about 6 in the

last three years giving an average of 2 a year. The standard may then be taken at $13 + 2 = 15$.

41—Civil Works.

37. *Expenditure*.—The average is based on expenditure incurred by the civil officers only. These fall under two heads (1) establishment and (2) Grants-in-aid to local bodies.

According to the Treasury accounts of 1925-26, the Establishment charges under (1) include:—

	Rs.
(a) Pay of one Executive Engineer, three Subdivisional officers, their staff, allowance and contingencies	6,500 a month.
(b) One District Board Engineer, whose pay is met by Government	750 „
TOTAL	7,250
	Say 86 a year.

Under (2), Grants-in-aid to local bodies for roads and bridges amounted to 1,91 in 1925-26, including 30 for flood damage repairs.

For (1) and (2) we get $86 + 1,91 = 2,77$. But, as the actuals for the three years show that Civil expenditure was between 2,72 and 2,79, we need not leave out of account the 30 for special flood damage repairs. On this basis we then get 2,77 as more or less normal annual civil expenditure under this head.

(2) The actual civil works expenditure incurred by the Public Works Department as given by the Works Audit Department of the Accountant-General's office practically all of which would be shown under "Cash remittances" in the Treasury accounts, was 82 in 1923-24, 77 in 1924-25 and 72 in 1925-26. Roughly we may take 75 as normal expenditure incurred by the Public Works Department under this head. The total of Civil and Public Works Department expenditure normally would then be $2,77 + 75 = 3,52$.

(3) It is doubtful however whether 3,52 would be a safe figure to take as standard under this head with reference to past expenditure only. We have to look ahead and to allow something for the programme of work to be carried out in the near future.

(a) There is a five years' programme of work to be executed in the Agency tracts by the Public Works Department from 1927-28 to 1931-32 at a cost of 7,01 of which 1,78 may be required in 1927-28.

(b) Outside this five years' programme, it appears from a note recorded by the Collector for my information that Government have approved his Gumsur Udaigiri model village scheme, according to which Government propose to construct a model village for the official colony there, viz., for Sub-Assistant Surgeons, Head-Master, Police Inspector and Constables, Forest Ranger, Health Inspec-

tor, Supervisor of Schools, Revenue Inspector, etc. This is estimated to cost 64 roughly, but may go up to 1,00.

(c) There are also the following projects:—

	Estimate.
(i) Taptapain Ghat Work	1,70
(ii) Godohoda Bridge	1,80
(iii) Khajadipoda Ghat work	2,00
(iv) Mohendrogodo Bridge	1,00
(v) 300 miles of roads to be metalled at a cost of at least	10,00
TOTAL	16,50

(d) The Collector's own office building was greatly damaged by the cyclone of 1923. He now holds his office in his own residence. The Collectorate buildings are in a dilapidated condition with leaky tiled roofs and floors badly worn out in places and walls not very strong and cracked here and there. Land has been acquired near the Chatrapur railway station for new buildings, though the project does not seem to have made any progress. Presumably within a couple of years new buildings will have to be constructed at a cost of some 2 or 3 lakhs.

(e) Aska Taluk Office is to be rebuilt at a cost of 67, of which 20 has been put in the budget of 1927-28.

(f) The Police Department have a building programme of 1½ lakhs to be spread over 7 to 10 years.

(g) There are also the following projects for which Government may have to find funds, according to information gathered at Chatrapur.

(i) Bahuda bridge (estimate 2,83) necessitated by cyclone damages. The whole of it will, it is understood, have to be borne by Government.

(ii) Mahendra Tanaya Bridge (estimate 1,99). The district board and Government will presumably share the expenditure half and half. A loan of 90 appears to have been sanctioned already.

(iii) Mahanadi bridge. Estimate 2.79, of which half may be required from Government.

(iv) Guherigedda bridge is estimated at 31 and Rushikulya bridge at 8.40. These are under correspondence with Government. As they are on the Trunk road, it is not improbable that Government will be expected to meet the whole cost.

(v) Donorai bridge is estimated at 52, and Government may be asked to meet half the cost.

Roughly it may be taken that there is a possibility of Government having to find about forty-five lakhs extra for various Public

Works Department projects in contemplation. It is difficult to suggest what should be allowed for in the standard figure for this kind of expenditure which will undoubtedly be spread over many years. For present purposes 2½ lakhs may be taken and the standard figure for the head raised from 3,52 to 6,00.

43—Famine.

37-A. Paragraphs 15—17 of the Statistical Atlas, 1923, of Ganjam give the history of famine in the district. The district as a whole is liable to famine and has been affected by it many times since 1792. The more serious of them is the one that occurred in 1919. The people are described there as law abiding, hard working and contented, and it is said "the Oriyas seem to prefer starvation to taking relief at kitchens or on relief works". In spite of this, expenditure on famine in 1919 amounted to 38,64 and remission of land revenue to the extent of 1,32 had to be granted. The latter figure was reported to me by the Board's office at Madras. The details of 38,64, which have been gathered from the Collector's report to the Board of Revenue, are given below:—

Salaries	78
Travelling allowance	22
Contingencies	2
Gratuitous relief in villages	14,24
Casual relief	7
Kitchen relief	6
Public Works Department relief works	23,25
TOTAL	38,64

(2) The following items collected from different sources indicate the expenditure necessitated by the cyclone and flood of 1923-24:—

(a) Government grant for damages to roads	35
(b) Irrigation working expenses in 1924-25, particularly in the Rushikulya and Ganjam minor river systems in Chicacole area rose by about a lakh on account of heavy repairs due to cyclone damages	1,00
(c) Actual famine expenditure recorded in 1923 and 1924-25 under 43—Famine Relief amounts to	24
(d) Bahuda bridge on the Trunk Road will require reconstruction on account of damages due to flood at a cost of	2,83
	(estimate).

(3) The closing balance of the famine insurance fund for the Presidency as a whole at the end of 1927-28 is estimated at 36,35. Madras have to pay 6,61 a year to the fund and should reach the limit at which contribution to the fund can be stopped in 1928-29. Presumably Bihar will get some share of it and the matter will require negotiation between the two Governments. Famine expenditure, should it unfortunately occur in the near future, could be met from the fund balance transferred to Bihar. Having regard

to the heavy famine expenditure of 1919, it is doubtful whether the fund transferred to Bihar would be sufficient to meet a calamity of a serious nature. Meanwhile it seems unnecessary or rather impossible to suggest any provision for famine expenditure in the standard figure and we may leave out of account the 8 worked out as average of last 3 years.

XXXIII—*Superannuation.*

38. The Accountant-General's figures are slightly different from those given by the Treasury and give an average of 8 which may be taken for a standard.

45—*Superannuation.*

39. An important question of principle arises here which will probably have to be settled between the two Governments. The position as regards these charges is now quite different from what it was in the pre-reforms days. In the pre-reforms days pension charges incurred in England would be a central charge and a pension drawn in any province would be a charge against the revenues of that province irrespective of the province where the retired officer may have served. This was all right when the provinces did not enjoy the same financial autonomy as now. Now a pension sanctioned before 1st April 1921 is a charge on the revenues of the province from which it used to be drawn and a pension sanctioned on or after 1st April 1921 is ordinarily shared by the provinces according to the length of service rendered in each. If and when Ganjam is taken over by Bihar, how will the pension drawn in the district be dealt with? We have presumably no precedent of territorial redistribution which will exactly meet the case. The following considerations arise:—

- (a) Pension is a kind of deferred pay, *i.e.*, it is a liability which, instead of being met along with ordinary pay as it becomes due, is postponed for liquidation at a later date.
- (b) Taxes are levied generally perhaps to the extent necessary to meet present requirements.
- (c) Can we infer from this that the liabilities of the Madras Government in respect of the pensions of their servants which have not been met from the taxes raised in Ganjam in the past should be liquidated by them in the future, *i.e.*, pension liabilities incurred up to the date of separation of Ganjam from Madras should remain with Madras? If this be the correct view, of which I am not sure, then the pensions earned by service in Bihar, after the transfer of Ganjam, should alone be a charge on Bihar revenues and pensions earned by service in Ganjam prior to its transfer should be a charge on Madras revenues.

(2) As already stated this question will require consideration by the two Governments. Meanwhile we may take for the standard a figure suggested by actuals. The Accountant-General's actuals are different from those of the Treasury and his average is 1,33 against 1,25 shown by the Treasury. We may take 1,33 as standard. The question whether we should have to take over the capital expenditure on commutation of pension financed from loan this year will arise. Here also I have assumed for present purposes that it will be taken over by Bihar.

'XXXIV—Stationery and Printing.

40. The actuals are constant and the small figure of 3 does not call for comments. It may be accepted as standard.

46—Stationery and Printing.

41. The Treasury actuals of 21 for 1924-25 was found to be incorrect and it should be 2 only. The average thus comes to 3. There is a small hand-press attached to the Collectorate, mainly for Oriya printing. It may not be required in the future as the Secretariat Press at Patna could perhaps take up the work done at Ganjam. For present purposes we may let it stand.

(2) For Stationery stores and also perhaps for form printing some allowance should be made in the standard. It has not been possible to get any figures from the Press at Madras to make an accurate idea of what stationery and printing of forms for Ganjam cost. As regards forms printing the Gaya Jail Press would do the work with Jail labour and the addition of a district may not make an appreciable difference in the staff employed. At any rate, it cannot be accurately estimated. The "stationery stores" which seem to include cost of paper in Madras comes to 8,87 according to the budget of 1927-28. This is for 24 districts in the Presidency and for present purposes we may take $1/24$ th of 8,87, viz., 37.

. For the standard figure we then get $3 + 37 = 40$.

XXXV—Miscellaneous.

42. The average of 10 may be accepted as standard.

47—Miscellaneous.

43. The average of 3 may be taken for standard.

51A. Miscellaneous Adjustment between Central and Provincial.

44. This head is for expenditure on the training of probationers of the Indian Civil Service and other services in the United Kingdom. Nothing need be provided for this.

52—Extraordinary charges.

45. The Accountant-General's actuals are *nil*. Nothing need therefore be provided.

Conclusion.

46. According to the suggestions made in the above notes Revenue and Expenditure for the whole of Ganjam will be—

Revenue Provincial	38,63
Expenditure Provincial	45,14
	<hr/>
Deficit	6,51
	<hr/>

(2) But it is at present proposed to exclude the revenues and expenditure of Chicacole, Tekkali, Sompeta and Parlakimedi taluks. The Treasury figures of revenue as given by the Madras Government in the statement enclosed with their letter No. 2589-A-2, dated the 18th October 1926, for these excluded areas, excluding cash remittances (248 + 227) is—

Chicacole	7,17
Other areas (Tekkali, etc.)	6,00
	<hr/>
	13,17
	<hr/>

Forest and Public Works receipts included in the Treasury accounts under "Cash Remittances" for the four excluded areas as supplied by the Collectorate were—

1	2	3
—	Forest.	Public Works Department.
1923-24	39	Negligible.
1924-25	37	2
1925-26	37	2
	<hr/>	<hr/>
	Say 38 a year.	Say 2 a year.
	<hr/>	<hr/>
		40 a year.

Receipts for the excluded areas thus amount to $13,17 + 40 = 13,57$.

(3) According to the figures supplied by the Collectorate, expenditure in the excluded areas was as follows in 1925-26:—

1	2	3	4
—	Chicacole.	Tekkali, etc.	Total.
For all heads other than Forest and Public Works Department	4,12	3,86	7,98
Forest Expenditure . . . . .	...	...	26
Public Works Expenditure . . . . .	...	...	48
	<hr/>	<hr/>	<hr/>
TOTAL . . . . .	...	...	8,72
	<hr/>	<hr/>	<hr/>

(4) It is not safe to take the figures for the excluded areas as anything better than very approximate. For the Accountant-Gen-.

ral's office have not sub-treasury figures with which they could verify them and the Collectorate could give me only actuals for one year only (1925-26) for expenditure in these areas. The district as a whole appears to be a deficit district, the annual deficit as worked out being 6½ lakhs. With the four taluks separated from Ganjam the deficit will increase further—

(a) Revenue of Ganjam as a whole	38,63
Deduct for excluded areas	13,57
	<u>25,06</u>

(b) Expenditure of Ganjam as a whole	45,14
Deduct for excluded areas	8,72
	<u>36,42</u>

Net deficit, difference of (a) and (b) 11,36
i.e., over 11½ lakhs.

(5) Separate notes relating to "Loans", Salt and Buildings and Equipment will be found in Appendices III to VI.

(6) I am grateful to all the officers and their staff who have helped me with advice, facts and figures, and particularly to the Accountant-General, Madras, and his office and the Treasury Department of the Ganjam Collectorate without whose ungrudging help it would not have been possible for me to finish this enquiry in three weeks.

U. M. SEN.

APPENDIX I TO MR. U. M. SEN'S NOTE.

RECEIPTS OF THE GANJAM DISTRICT.

[In thousands of rupees.]

1	2	3	4	5	6	7
Heads.	1923-24.	1924-25.	1925-26.	Total.	Average.	Suggest- ed stand- ard.
II.—Taxes on income . . . . .	..	..	..	..	..	9
V.—Land Revenue . . . . .	..	..	..	71,15	23,72	18,32
VI.—Excise	12,25	11,52	11,01	34,78	11,59	11,25
VII.—Stamps	{ .. 5,18	4,86* 5,86	.. 5,64	.. 16,68	.. 5,56	.. 5,86
VIII.—Forests . . . . .	..	..	..	..	..	1,78
IX.—Registration	86	80	94	2,60	87	87
XIII.—Irrigation . . . . .	..	..	..	..	..	—90
XIV.—Irrigation	3	2	..	..	2	2

*Accountant-General's figures.

1	2	3	4	5	6	7
Heads.	1923-24.	1924-25.	1925-26.	Total.	Average.	Suggested stand-ard.
XVI.—Interest . . . .	..	..	..	..	26	26
XVII.—Administration of Justice.	34	30	36	1,00	33	33
XVIII.—Jails and convict settlements.	7	4	6	17	6	6
XIX.—Police	11	13	13	37	12	14
XXI.—Education	7	1	1	9	3	1
XXII.—Medical	{ *2	*2	..	..	..	..
	10	4	2	16	5	2
XXIII.—Public Health . .	{ *1	..	..	..	..	..
	7	..	2	9	3	1
XXIV.—Agriculture . . .	{ *1	..	..	..	..	..
	6	1	2	9	3	1
XXV.—Industries	8	6	7	21	7	7
XXVI.—Miscellaneous Departments.	8	8	9	25	8	8
XXX.—Civil Works	13	12	12	37	13	15
XXXIII.—Superannuation .	{ *7	*8	*9	*24	*8	{ 8
	3	5	7	15	5	
XXXIV.—Stationery and Printing.	2	3	3	8	†3	3
XXXV.—Miscellaneous . .	7	12	11	30	10	10
XXXIX.—Miscellaneous adjustments between Central and Provincial.	..	..	..	..	..	..
Cash Remittances	71,91	1,17,49	1,15,16	3,04,56	1,01,52	..
Total for whole of Ganjam .	..	..	..	..	‡1,44,05	38,63
Deduct for excluded areas .	..	..	..	..	17,91	—13,57
					1,26,74	25,06

*Accountant-General's figures.

†Figure originally reported was 6.

‡Excluding Accountant-General's figure marked with asterisk.

APPENDIX II TO MR. U. M. SEN'S NOTE.

EXPENDITURE OF THE GANJAM DISTRICT.

[In thousands of rupees.]

1	2	3	4	5	6	7
Head of Account.	1923-24.	1924-25.	1925-26.	Total.	Average.	Suggested standard.
5.—Land Revenue . . .	3,80	33	41	3,72	1,24	54
6.—Excise . . .	Nil	73	77	1,50	50	82
7.—Stamps . . .	12	11	14	37	12	15
8 & 8A.—Forests . . .	..	..	..	..	..	2,30
9.—Registration . . .	56	58	61	1,75	58	58
14.—Interest on Irrigation .	..	..	..	..	..	1,61
15.—Minor Irrigation Expenditure.	69	75	72	2,16	72	1,18
21.—Reduction or avoidance of debt.	..	..	..	..	..	..
22.—General Administration	6,00	9,82	9,39	25,21	8,40	9,81
24.—Administration of Justice	2,12	1,94	1,93	5,99	2,00	2,00
25.—Jails and Convict Settlements.	49	52	49	1,50	50	50
26.—Police . . .	5,79	6,89	6,76	19,44	{ 6,48 *6,45 }	6,95
31.—Education . . .	6,67	7,07	7,87	21,61	{ 7,20 *7,23 }	8,66
32.—Medical . . .	98	1,01	1,04	3,03	1,01	1,34
33.—Public Health . . .	30	34	42	1,06	36	42
34.—Agriculture . . .	36	39	37	1,12	37	37
35.—Industries . . .	1	6	10	17	6	10
37.—Miscellaneous Departments	7	5	4	16	5	5
41.—Civil Works . . .	2,79	2,74	2,72	8,25	2,75	6,00
43.—Famine Relief . . .	1	23	..	24	8	..
45.—Superannuation . . .	{ 98 * 1,11 }	{ 1,18 * 1,19 }	{ †1,59 * 1,69 }	{ 3,75 * 3,99 }	{ 1,25 1,33 }	1,33

* Accountant-General's figures.

† Includes 20 in March 1926 for commutation.

1	2	3	4	5	6	7
Head of Account.	1923-24.	1924-25.	1925-26.	Total.	Average.	Suggested stand-ard.
46.—Stationery and Printing	5	21	3	29	9	40
47.—Miscellaneous . . .	4	3	2	9	3	3
51.—Contribution to the Central Government by Provincial Government and 51A. Miscellaneous adjustment.	..	..	..	..	..	..
52.—Extraordinary charges .	..	..	18	18	6	..
Cash Remittances . . .	20,37	34,27	35,69	99,33	33,11	..
Total for whole of Ganjam	..	..	..	..	(a)66,96	45,14
Deduct for excluded areas	..	..	..	..	..	—8,72
Total . .	..	..	..	..	..	36,42

(a) Excluding Accountant-General's figures marked with asterisk.

APPENDIX III TO MR. U. M. SEN'S NOTE.

LOANS.

The following are the various classes of loans outstanding in Ganjam which the Government of Bihar and Orissa may be expected to take over:—

(1) Class I Loans.

(a) Land Improvement Act Loans—

at 6½ per cent.	37 balance on 1st April 1926.
at 7½ per cent.	1,28 Ditto.
TOTAL	1,65 Ditto.

(b) Agriculturists' Act Loans—

at 6½ per cent.	19
at 7½ per cent.	1,16
TOTAL	1,35
TOTAL	3,00 Ditto.

Class IV Loans.

Berhampore Municipal Council loans sanctioned before 1st October 1916—

of 1,50	. . . . .	92	balance on 1st April 1926.
of 26	. . . . .	12	Ditto.
of 10	. . . . .	5	Ditto.
		<hr/>	
		1,09	Ditto.

Ganjam District Board Loan . . . 90 Granted in 1926-27.

TOTAL . 1,99

(Parlakimedi municipal loans, of which outstanding balance on 1st April 1926 was 21 may be ignored as this relates to an excluded area.)

Total outstanding loans Classes I and IV is thus—

4,99
Say . 5,00

(2) Capital expenditure on Russellkonda Saw Mill met from loans funds up to 30th June 1926 amounts to 4,39; interest at 5-20 per cent.

(3) Communications of pensions financed from loans in 1926-27, 10.

(4) Irrigation Loans.

Rushikulya system Capital outlay met from loans funds—outstanding balance on 31st March 1926 47,73

(Ganjam minor river system falls in Chicacole, an excluded area. The outstanding loan for this project was 12 on 31st March 1926 and interest was 1 for a year. But this may be ignored.)

(5) The question may also arise whether Bihar should not take over part of the unproductive debt representing revenue deficits of the Presidency.

Bihar's liability for loans will thus amount to—

Classes I and IV	5,00
Commutation of pensions from Loans funds	10
Russellkonda Saw Mill loans	4,39
Irrigation loans	47,73
<hr/>	
TOTAL	57,22

i.e., over half a crore apart from share of revenue deficits debt.

(6) There is no sinking fund.

APPENDIX IV TO MR. U. M. SEN'S NOTE.

SALT.

There was a combined salt and excise establishment in Madras before 1st April 1924. The cost of the combined establishment was distributed between Central and Provincial in the ratio of 1 (for Central) to 2 (Provincial). The adjustment was made in the Accountant-General's office and therefore there were no actuals for 1923-24 in the Treasury accounts under Excise. The receipts of the Salt Department were treated as "Cash Remittances, Salt remittances." It appears from the Administration Report for 1924-25 that the Salt Department was placed in charge of an Indian Civil Service Collector of Salt Revenue, subordinate to the Local Government, but independent of the Board of Revenue from 1st April 1924. There are three Assistant Commissioners' circles in the Presidency; one of the Assistant Commissioners is also the Secretary to the Collector of Salt. The strength of the staff including Inspectors, Assistant Inspectors, Sub-Inspectors, clerks and menials was 3,890 in the beginning—3,874 at the end of the year 1924-25.

2. The Salt Secretary was consulted. He said no profit accrues to the local Government from salt, and both revenue and expenditure are central. Preventive establishment is also a central charge.

3. No rents are realized to cover the cost of supervision. Government bear as supervision charges a sum equal to 5 per cent. of the duty realised. Excess over 5 per cent. of the duty is realised from the manufacturers. *Vide* Section 43 of Madras Salt Act No. IV of 1889.

4. There are monopoly factories side by side with excise factories. The object of the monopoly factories run by Government is to ensure that salt reaches the consumer at a reasonably low and steady figure. Accordingly Government have undertaken the responsibility not only of manufacture and wholesale disposal of salt but also for retail sales. Government salt is put on the market if the prices of excise salt show a tendency to rise. To avoid unnecessary accumulation of stock which may have to be sold at a loss or destroyed, another system was introduced in 1924-25 and is being gradually extended in the case of new assignments. Under this third system, Government hold a lien on a fixed percentage of a licensee's salt for one year instead of buying it outright.

The total salt revenue in the Presidency was 1,94.97 lakhs in 1924-25, of which Rs. 17.05 lakhs was duty and cost price realised in cash and Rs. 1,75.05 lakhs the duty on salt sold on credit and the balance Rs. 2.62 lakhs customs duty, cess and fines.

The total charges in the Presidency amounted to Rs. 17.39 lakhs of which Rs. 10.54 lakhs were the recurring charges for establishment, supplies and services and contingencies of the department and Rs. 6.85 lakhs charges for the purchase, transport and storage

of salt and the recoverable charges on account of Excise licensees' works.

Closure of factories for the manufacture of crude saltpetre and also of refineries was ordered from the 1st October 1925.

APPENDIX V TO MR. U. M. SEN'S NOTE.

BUILDINGS, EQUIPMENT, ETC.

Berhampore.

I visited Berhampore on my way back from Madras and spent a day there (Monday, the 4th April 1927).

2. Berhampore town is about 3 miles long and a mile wide. It runs from east to west. In the morning I visited the more crowded part of the town in the west. The main post office is there. Within a furlong are most of the offices, *viz.*, those of the Sub-Collector—the head executive officer of the town, the Tahsildar, the Sub-Treasury, the Sub-Magistrate, the Taluk Board and the Subdivisional Officer of the Public Works Department of the Taluk Board. All these are *pucca* buildings but with tiled roofs. Very close to these offices there is the Government dispensary and hospital, a fairly big institution. There are two churches, one for the Protestants, and another for the Catholics besides the Government church. In this part of the town there are also located the Kalicota Intermediate College, and a private institution and also school teaching up to the School Leaving Certificate Examination. There is also a Government Middle School for girls which will probably go over to the taluk board soon.

3. The District Judge, the Sub-Collector (an I. C. S. Officer), the District Medical Officer and the Executive Engineer have all their residences in the eastern part of the town—a less crowded part. There is also the District jail nearby, and also a European club house. The offices of the District Judge, Sub-Judge and Munsiff are also there located in Government buildings. The residential buildings seemed quite decent from outside. The Judge's office has a big compound or rather a big field on one side. The office buildings are *pucca* but with tiled roofs. As the offices were closed for a Muhammadan holiday, it was not possible to see the inside of any of the buildings.

4. Midway between the Sub-Collector's Court and the District Judge's Court there is a Zanana Hospital run by some Christian Mission. There is a bazar within a furlong of this hospital, but I was told the big shops are at some distance from it. I could not visit the part of the town where the big shops are located.

5. The drains are *cutcha*. Water is supplied to the town through pipes and there are standposts here and there by the side of the roads. I understand drinking water is obtained for the town from

some reservoir near Surada—connected with the irrigation system in the north (the Rushikulya system). The roads are metalled and good enough for wheeled traffic. There are hardly any carriages drawn by horses in the town. *Jhutkas* drawn by bullocks are the chief means of conveyance. There is a motor service running between Berhampore and Chatrapur, and the rich inhabitants have their motor cars and the lower middle class their bicycles.

CHATRAPUR.

6. *Chatrapur*.—The Collector's headquarters—is 10 to 12 miles from Berhampore. Chatrapur is on the main Bengal Nagpur Railway and there is also the motor lorry service connecting it with Berhampore. Besides the Collector, the Superintendent of Police and the District forest officer are located at Chatrapur with their offices. The Tahsildars and the District Board offices and the District Registrar's office are nearby. The dispensary there is a local fund institution and is in charge of an Assistant Surgeon. The Sub-jail is a small one and is under the Treasury Deputy Collector and located near the Treasury building. There is a post office and also a club with tennis and badminton courts mainly for the Indians—official and non-official—occasionally visited by the Collector and the European officers. The bazar is a poor one and is meant to meet the needs of the Indian population of limited means. The Europeans get their stores from Berhampore.

7. The roads in Chatrapur are good. As in Berhampore there is difficulty in moving about for want of carriages drawn by horses and the chief means of conveyance is the *jhutka* or bullock cart. The high officials of course have their cars and there is the motor lorry service. Drinking water is obtained from wells and tanks. There are big *tamparas* (depressions with shallow water) near about the town used perhaps for watering the fields nearby.

DISTRICT.

8. I secured a list of Government buildings in the district of Ganjam from the Executive Engineer's office and had a copy made at the Collector's office. This gives their size, condition, etc. In Appendix VI will be found in a convenient form the information collected from the Sub-Collector's office at Berhampore as to the officers who have got buildings for their offices and residences. The Executive Engineer reported in a note sent in this connection that the buildings are generally in good condition. So far as I could gather there are no proposals for extensive renewals or replacements, except in the case of the Collector's cutchery at Chatrapur, for which a new site was purchased some years ago and the Aska taluk office which is to be rebuilt at a cost of 67 of which 20 has been put in the budget of 1927-28. It is uncertain when the Collector's new cutchery will be taken up. The buildings seemed to be in a dilapidated condition and the Collector's office room was blown down by the last cyclone and he holds his office in his residence at some

distance from the cutchery. As noted elsewhere the Collector's model village scheme for Ghumsur Udaigiri has been approved by Government. It is estimated to cost 64 and may require 1,00 ultimately. A heavy programme of bridging projects and metalling roads also exists, which may cost $16\frac{1}{2}$ lakhs as stated already under "41—Civil Works". The roads are mainly local fund affairs, but Government has to contribute heavily for bridges particularly. The maintenance of trunk and second class roads in the agency portion of the district has become a Public Works Department charge from 1st April 1927. Prior to that date they were maintained by agency local boards partly subsidized by Government.

APPENDIX VI TO MR. U. M. SEN'S NOTE.

Information collected from the Sub-Collector's office at Berhampore as to which of the officers have Government buildings for their offices and residences.

Officers.	Government building for office.	Government quarters.
1	2	3
<hr/>		
REVENUE.	(1) <i>Berhampore division.</i>	
1 Sub-Collector	Yes	Yes.
1 Tahsildar	Yes	No.
1 Sub-Magistrate	Yes	No.
 EXCISE.		
1 Inspector of Excise	Private building	No quarters.
1 Sub-Inspector of Excise	No.	No.
 REGISTRATION.		
1 District Registrar	} Yes, one for two	No quarters.
1 Joint Registrar.		
 CIVIL.		
1 District Judge	Yes	Yes.
1 Sub-Judge	Office located in a <i>private</i> building.	No.
1 District Munsif.	Yes	No.

Officers. 1	Government building for office. 2	Government quarters. 3
JAIL.		
Superintendent of Jail	Yes, in the jail buildings	Yes, in the jail buildings.
Jailor and Warders, Sub-Assistant Surgeon.	Ditto	Ditto.
POLICE.		
1 Inspector	Yes, in the Thana buildings	No.
1 Sub-Inspector for town	Do. in the same buildings	Yes
1 Sub-Inspector for taluk	Separate thana building	Yes.
Head Constables and constables . . . .	....	Yes.
EDUCATION.		
1 District Education Officer	Office located in a <i>private</i> building	No quarters.
Government Girls' Middle School	Government buildings . . . .	..
Government Training School	Yes	No.
MEDICAL.		
1 District Medical Officer	Office is in Local Fund building	Yes.
1 Assistant Surgeon	Do. . . .	No.
Hospital	Government buildings	There are Sub-Assistant Surgeon's quarters built by Government.
AGRICULTURE.		
Veterinary Hospital	Yes, Government building.	
PUBLIC WORKS DEPARTMENT.		
1 Executive Engineer (in charge of Irrigation and Government buildings in the district)	Yes	Yes.
1 Sub-Divisional Officer (ditto for Behrampore Sub-Division)	Yes	No.
Overseers	Yes, in the Sub-divisional Officer's office.	No.

Officers.	Government building for office.	Government quarters.
1	2	3
	(2) <i>Chatrapur division.</i>	
Collector	Yes	Yes.
Treasury Deputy Collector . .	Yes	Yes.
General Deputy Collector . .	Yes	No.
Tahsildar Magistrate	Yes, in the same building with General Deputy Collector.	No.
Assistant Collectors (on training) .	No	Yes.
EXCISE.		
Sub-Inspector	No	No.
FOREST.		
District Forest Officer	Yes	Yes.
REGISTRATION.		
Sub-Registrar	Yes	No.
JAILS.		
Sub-Jail	Yes . . . . .	....
POLICE.		
Superintendent of Police	Yes	Yes.
Sub-Inspector and Head Constables and constables.	Yes, in thana	Yes.
Reserve Inspector and Sergeants and constables.	Yes, in Superintendent's Office .	Yes.
EDUCATION.		
Deputy Inspector of School . . .	No	No.
MEDICAL.		
Assistant Surgeon (with hospital run by Local Board).	....	Yes.
AGRICULTURE.		
Agriculture, Veterinary, Co-operative.	No	No.

Officers.	Government building for Office.	Government quarters.
1	2	3
PUBLIC WORKS DEPARTMENT.		
Overseers	No	No.
REVENUE.		
	<i>(3 Ghumsur division.</i>	
1 General Deputy Collector . . .	Yes	Yes.
1 Sub-Magistrate	Yes	No.
1 Special Assistant Agent of the Balliguda Agency division located at Russellkonda.	Yes	Yes.
EXCISE.		
1 Sub-Inspector	No	No.
REGISTRATION.		
Sub-Registrar	Yes	No.
Jails	Yes, Sub-Jail . . . . .	....
POLICE.		
1 Assistant Superintendent of Police	In rented bungalow	Yes.
1 Reserve Inspector	Ditto	No.
1 Circle Inspector	Yes, in the thana	No.
1 Sub-Inspector	Yes, in the thana	Yes.
Police Hospital	Yes (Government buildings)	Yes, for the Sub-Assistant Surgeon.
EDUCATION.		
1 Deputy Inspector of Schools . .	No	No.
MEDICAL.		
Assistant Surgeon	Local fund hospital	Local fund quarters.
AGRICULTURE.		
Veterinary Surgeon, Agricultural Demonstrator.	No	No.

Officers. 1	Government building for office. 2	Government quarters. 3
PUBLIC WORKS DEPARTMENT.		
Sub-divisional Officer . . .	Yes	Yes.
	(4) Aska Taluk within Ghumsur division.	
REVENUE.		
Tahsildar and Magistrate . . .	Yes	No.
EXCISE.		
Sub-Inspector	No	No.
Distillery Officer	Private buildings	Private quarters.
REGISTRATION.		
Sub-Registrar	Yes	No.
CIVIL.		
District Mansif	Yes	No.
POLICE AND JAILS.		
Inspector of Police	Yes, in the thana	No.
Sub-Inspector	Ditto	No.
Sub-jail	Yes, attached to the thana	No.
EDUCATION.		
Deputy Inspector	No	No.
Government Girls' School	Yes	No.
MEDICAL.		
	Local Fund Dispensary	Local fund quarters.
AGRICULTURAL.		
Co-operative Inspector	No	No.
PUBLIC WORKS DEPARTMENT.		
Overseer	No	No.

**THE TRANSFER OF SYLHET FROM ASSAM TO
BENGAL.**

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The transfer of Sylhet from Assam to Bengal.

The scope of the note.

1. In 1926 the Secretary of State ruled that the transfer of the district of Sylhet from the province of Assam to the province of Bengal could not be dissociated from the question of the future form of administration of the province of Assam. The Government

of India, agreeing with that ruling, decided to reserve these two questions, namely, the transfer of Sylhet and its consequent effect upon the future status of Assam, for consideration by the Statutory Commission. In this memorandum a brief statement is given of the discussions which led up to the issue by the Secretary of State in 1926 of the orders cited above. The Government of India have not since then been in touch with local opinion in the matter of the suggested transfer. Views may have changed, and it is possible, therefore, that opinions previously expressed by those directly acquainted with the question may no longer hold good, or may require modification.

2. The Chief Commissionership of Assam, as originally constituted by notification issued on the 6th February 1874, did not include the Sylhet district. It was, however, added to it a few months later by a notification dated the 12th September 1874. When the territorial jurisdiction of the new province was under discussion, it was recognised that the fact that Sylhet was a regulation district and permanently settled was an argument for its exclusion: on the other hand, the communications of Sylhet were with Assam, Shillong and Cachar far more than with Calcutta and, owing to the tea interests, it was felt that the Shillong, Cachar and Sylhet districts could hardly be disconnected from each other. Moreover, Sylhet was not a permanently settled district as a whole: its land system comprised no less than 33 different kinds of tenures. Out of more than 77,000 estates only 52,117, many of which were extremely small, had been permanently settled, the remainder of the estates being temporarily settled. Further, the Dacca division to which the Sylhet district then belonged was of unwieldy dimensions. In the circumstances it was decided that it was preferable that Sylhet should come under more direct supervision than could be exercised from Calcutta. The Sylhet district had for these reasons from the first been included with Assam in the proposals submitted by the Government of India, but orders for its inclusion were deferred by the Secretary of State pending an assurance that its inclusion in the new province would not entail interference with the laws at that time in force in it.

Early protests in 1874 against the inclusion of Sylhet within the newly-constituted province of Assam.

A memorial protesting against the inclusion of Sylhet in the new province of Assam was submitted at the time by persons describing themselves as the inhabitants of the district of Sylhet, and was considered and rejected by the Government of India. The memorialists appeared to have been alarmed at the prospect of the amalgamation of the district with a non-regulation province and misapprehended the effect of the measure which was intended mainly to localise the Government, and thus improve it by placing all important matters under the management of local authorities directly responsible to the Governor-General in Council. Though the memorial was rejected, the memorialists were given an assurance that no change would be made in the Sylhet district either in the system of law or judicial procedure or in the principles of assessment and collection of land revenue which applied through-

out Bengal. This decision was apparently accepted as final, since nothing was heard of the matter for the next 31 years.

Agitation in 1911 and the succeeding years for the inclusion of Sylhet in Bengal instead of in the re-constituted province of Assam.

3. In 1905 the formation of the province of Eastern Bengal and Assam re-united Sylhet with the Bengal districts with which it was most closely connected, but when the announcement of the dissolution of that province in 1911 threatened again to separate Sylhet from Eastern Bengal, an agitation was immediately set on foot for the incorporation of Sylhet in Bengal instead of in the re-constituted province of Assam. Hindu educated opinion was generally in favour of re-union with Bengal; Muslim opinion was at first divided, but as experience was obtained of the working of the new administration, many Muslims, who had at first supported the agitation for inclusion in Bengal, changed their views, and a largely attended public meeting of Muslims convened in August, 1912, at the instance of the Anjuman-i-Islam, Sylhet, passed a *unanimous resolution in favour of remaining in Assam*. The agitation which had been raised then gradually subsided.

Revival of the agitation at the time of the last reforms.

4. The movement in favour of amalgamation with Bengal was next revived at the time of the discussions regarding the proposed constitutional reforms. An address on the subject was presented to the Secretary of State and His Excellency the Viceroy by a number of inhabitants of the Sylhet district in 1917, and the question was also brought up in the Indian Legislative Council early in 1918 in the course of a general debate on the adjustment of provincial boundaries. The Government of India commented on the matter in paragraph 13 of their Ninth Reforms Despatch No. 7, dated the 5th June 1919, in which they said that they had no evidence that there was any general desire for a transfer of the Sylhet district to Bengal and observed that they agreed with the authors of the report and with the Chief Commissioner that re-distributions of provincial areas should not be imposed by official action and should follow rather than either precede or accompany reforms. The actual proposals laid before the Secretary of State by the Government of India in the Ninth Despatch for the form of administration to be set up in Assam were not accepted, and the Joint Select Committee of Parliament decided not to differentiate the case of Assam from other provinces. It was, therefore, constituted a Governor's province, the district of Sylhet remaining as previously under the Assam Administration. Meetings in favour of re-union were then organised. A Sylhet-Bengal Re-union League was formed, and, in 1920, decided that a deputation should address His Excellency at the time of his visit to Assam; but as the Surma Valley Conference had in the meanwhile adopted non-co-operation and resolved that no addresses should be presented to His Excellency, the proposed deputation fell through and the League was dissolved. In the course of the debate on a resolution on the subject of the redistribution of provinces moved by Mr. Latthe in the Legislative Assembly on the 21st September 1921, some reference was made to the position of Sylhet, and the Home

Member, on behalf of the Government of India, promised careful consideration if the Assam Council made recommendations.

5. There was no debate on the subject of Sylhet in the first reformed Assam Council. In the second Council the matter was brought up by one of the leaders of the Nationalist party, Babu Brajendra Narayan Chaudhuri, who moved a resolution on the 29th July 1924, recommending the transfer of the district of Sylhet to the administration of Bengal. In support of his resolution, the mover stated that with the exception of a small proportion of imported labour on the tea-plantations practically the whole of the remainder of the indigenous population was Bengalee by race and by speech, and bound by ties of blood and social relationship with the Bengalee population of the neighbouring districts of the province of Bengal; Sylhet had no affinity, either linguistic or social, with Assam from which it is separated by a barrier of mountain ranges; there was no tendency on the part of the inhabitants of Sylhet to merge themselves with the inhabitants of Assam, and a half-century's administrative connection with the Assamese had produced no appreciable change in the social sentiments of the people of either of these two races. The mover drew attention also to administrative differences between Sylhet and Assam. The greater part of Sylhet, like Bengal, is permanently settled, whereas the rest of Assam, except the Bengalee-speaking district of Goalpara, is temporarily settled. Sylhet has the Bengal judicial system of Subordinate Judges and Munsifs, while in Assam the Civil Courts are presided over by executive officers. In the Surma Valley, comprising both Sylhet and Cachar, Bengalee is the court language; in the rest of the province Assamese is the court language. The mover referred to the early history of the agitation of the people of Sylhet for union with Bengal, and relied upon paragraph 246 of the Joint Report in support of his argument that the transfer of the district to Bengal should be effected without delay. He referred to pledges given by Lord Chelmsford that the people of Sylhet should remain under the jurisdiction of the Calcutta High Court and should retain their connection with the Calcutta University. He argued that this pledge would become increasingly difficult to fulfil as the province of Assam continued to develop upon lines of its own. He stated that Sylhet is a deficit district and suggested that the finances of the province of Assam would be benefited if relieved of charges on account of Sylhet, since it would then at the same time be possible for the top-heavy executive of the province to be lightened.

A resolution for the amalgamation with Bengal of the districts of Sylhet and Cachar passed by the Assam Legislative Council in July 1924.

The resolution was opposed by Mr. J. E. Webster, Member of the Executive Council in charge of the subjects of Land Revenue and Finance, who stated that the Government of Assam were not prepared to accept the resolution, and that he would himself vote against it, but that other official members would have full liberty to vote as they thought fit in the interests of the province. The points taken by Mr. Webster in his speech were that Government would require in the first place to have an assurance that the de-

mand for the transfer of Sylhet to Bengal was an effective and intelligent demand on the part of the majority of the people of Assam; the transfer of the Sylhet district could not be considered solely with reference to the wishes of the inhabitants of that district alone; while Government recognised that there was amongst a section of the people of Sylhet a feeling that they ought to be joined to Bengal, Government were not convinced that this demand came from a very large proportion of the people of Sylhet, certainly not from the majority. He suggested that since Sylhet, which was represented by thirteen members in the Council and at that time by one of the Ministers, had so large a voice in the management of the affairs of the province of Assam, it might not be to the interest of the district to merge itself in the province of Bengal. The effect of the transfer of the province of Assam was, however, the main issue for members to consider.

In the course of the debate a Muslim member, Khan Bahadur Alauddin Ahmad Chaudhuri, stated that he was one of those who had previously been in favour of the union of Sylhet with Bengal; he had, however, since then changed his mind. The people of Sylhet would, in his opinion, come under grave disadvantages both in matters of the land-revenue law and in other respects if amalgamated with Bengal, while he felt that the existing form of administration would not be able to continue in Assam if Sylhet were cut off from that province. A representative of the tea-planters opposed the resolution since he feared that the transfer of Sylhet would merely lead to demands for other districts also to be amalgamated with Bengal.

At a rather late stage in the debate a member moved an amendment to include Cachar within the terms of the resolution. This amendment was accepted, and the resolution was passed in its amended form by 22 votes to 18.

The proceedings of the Assam Legislative Council were reported to the Government of India by the Government of Assam in their letter No. Pol.-1917-5585, dated the 30th October 1924 (Serial No. 1 in Appendix I). In that letter the Government of Assam stated that both in Sylhet and in Cachar further enquiry would have to be made to ascertain the real wishes of the people before any action could be taken, but they suggested that as a preliminary step the general views of the Government of Bengal might first be ascertained.

The Govern-
ment of
Bengal
report the
absence, in
that pro-
vince, of
any active
demand for
the transfer;
January
1925.

6. On a reference being made to them by the Government of India the Government of Bengal replied in their letter No. 635-P., dated the 15th January 1925 (Serial No. 2 in Appendix I), that there was no active demand in Bengal for the transfer to that province of Sylhet and Cachar and that the Governor in Council, therefore, would prefer that the question should not be raised. The financial effect of the change would in any case require very careful examination.

7. In November 1924, notice was given by a number of members of the Legislative Assembly of a resolution recommending that effect should be given to the resolution of the Assam Council passed in the previous July. The resolution obtained a low place in the ballot and was not debated. It re-appeared, however, on the 23rd January 1925, when it was moved by Mr. M. S. Aney. Mr. Aney claimed that it would be in accordance with the recommendations of the Joint Select Committee of Parliament that the wishes of the people of Sylhet and Cachar should be respected, and he considered that the transfer of those two districts to Bengal would not jeopardise the future status of the province of Assam. In this speech the Home Member stated that the introduction of Cachar brought a new element into the problem, and that the resolution obviously raised very serious questions. The total population of the whole province of Assam, as at present constituted, is 7,600,000. Sylhet has a population of roughly 2,500,000 and Cachar of a little over 500,000. If these two districts were to be transferred, 3 million of the population of Assam would be taken away, and the province would be left with a population of about 4 millions only. The position taken by the Government of India in the debate was that they would consider carefully any expressions of views by members of the Assembly, but that they would need to consult the Government of Bengal and to make further reference to the Government of Assam before they could come to any final decision. The debate was eventually adjourned till the September session.

A resolution supporting the transfer moved in the Legislative Assembly by Mr. M. S. Aney in January 1925; the debate adjourned.

8. The Government of India took the opportunity given by this interval to address the Government of Assam and request them—

Correspondence of the Government of India with the Government of Assam.

(a) to ascertain and report the real wishes of the people concerned, and

(b) to prepare a financial statement.

The Government of Assam replied in their letter No. 1573-Pol.-3860-A. P., dated the 11th August 1925 (Serial No. 3 in Appendix I). They estimated that in the Sylhet district there was an annual deficit of Rs. 4 lakhs. Hindu sentiment was stated to be in favour of union with Bengal; Muslim opinion to be divided. The Government of Assam added that they were not opposed to the transfer if the Government of India considered that the wishes of the majority of inhabitants should be respected, but that the transfer of Sylhet to Bengal should not be permitted to affect the status of Assam as a Governor's province.

With regard to Cachar, the Government of Assam observed that the transfer of this district had been added in the resolution passed in the Assam Council in July 1924 merely as an after-thought. Cachar had always been intimately associated with Assam, to which it had given a Cachar dynasty. The Bengalee element inhabiting the district of Cachar who form the majority of the population were new settlers there, and could scarcely claim

that they had annexed the district and had a right to demand its transfer to Bengal. The Governor in Council stated that several other members who had first supported the resolution for the transfer of Cachar had resiled from that position. Though there might be something to be said for the transfer of Sylhet there was, in the opinion of the Government of Assam, no case whatever for the transfer of Cachar.

Correspondence of the Government of India with the Government of Bengal. The Bengal Council passes a resolution in favour of the transfer of Sylhet but not of Cachar; August 1925.

9. The Government of India next sent the Government of Bengal a copy of the letter received from the Government of Assam and asked them for a provisional expression of their views. The Government of Bengal replied by submitting, for the information of the Government of India, a copy of a debate held in the Bengal Legislative Council on the 19th August 1925, proposing that the district of Sylhet should be transferred to Bengal. In that debate the position of the Government of Bengal had been explained to the Council by Sir Hugh Stephenson who said that, as a matter of abstract sentiment, the Government sympathised with the resolution; one of the principal matters for consideration would be the wishes of the people concerned, and on that point the Government of Bengal were not in a position to come to any decision, but the Government of Assam held the view that the local population were not unanimous in desiring amalgamation with Bengal; further, if the claims of Sylhet to amalgamation with Bengal were admitted, similar claims might be made in respect of other areas also, for instance, Manbhum, and the extension of such claims might be an embarrassment; lastly, financial considerations could not be ignored. He added, however, that the Government of Bengal retained an open mind on the subject, and if the resolution were pressed to a division the Government would take no part in it. An amendment was moved to associate Cachar with Sylhet in the resolution but was lost by 2 votes to 11. The original motion was then put and agreed to without a division. In reporting the results of the debate to the Government of India (Serial No. 4 in Appendix I) the Government of Bengal noted that their Legislative Council had had no real opportunity to consider the financial aspects of the case, and must have a second opportunity to express their views with a full knowledge of the financial implications. The Government of Bengal were themselves inclined to think that the actual extra cost to Bengal had been underestimated by the Government of Assam; for that reason, if Sylhet were included in Bengal the Bengal Government would claim an additional assignment at the expense of the Government of Assam. The Government of Assam had suggested that since the temporarily settled Jaintia parganas of the Sylhet district originally formed no part of the district of Sylhet, they should probably be excluded from any transfer of territory from Assam to Bengal. The Government of Bengal observed that their exclusion would aggravate financial objections.

Mr. Aney withdraws

10. Mr. Aney's resolution of the 23rd January 1925 was resumed for discussion in the Assembly on the 2nd September 1925,

but no further debate took place. The Home Member stated that the Government of India were in correspondence with the two local Governments concerned and expressed the opinion that further discussion in the Assembly at that stage could lead to no results. He stated that he proposed to circulate copies of the correspondence to all members of the Assembly, and suggested that the resolution might be withdrawn, and the matter discussed on a further resolution in the next session, when the problem could be dealt with in a more satisfactory way. On this assurance, Mr. Aney, by leave of the Assembly, withdrew his resolution.

11. The Government of India then addressed the Governments of Bengal and Assam (Serial No. 5 in Appendix I), and expressed the following provisional conclusions:—

- (1) the transfer of Cachar need not be further considered,
- (2) the position of the Jaintia parganas required further examination,
- (3) the future status of Assam should be treated as a separate question to be decided on its merits after the transfer of Sylhet had been made. The Government of India could give no undertaking to the Government of Assam that the transfer of Sylhet would not affect its status as a Governor's province.
- (4) the Government of India recognised that a territorial re-adjustment between the provinces of Bengal and Assam had a bearing on the question of the Meston Settlement; but the Government of India Act did not contemplate contributions from one provincial Government to another and there could be no assignment of revenue by Assam to Bengal.

The provisional conclusions of the Government of India communicated to the Governments of Bengal and of Assam.

The Government of India suggested that there should now be a final discussion of the whole question in the Bengal and Assam Councils.

12. Shortly afterwards the Assam Government revised their financial statement and submitted a statement (Serial No. 6 in Appendix I) which showed that according to the latest figures for 1924-25 the deficit in the Sylhet district was reduced to Rs. $\frac{1}{2}$ lakh, if the share of headquarters and divisional charges were excluded. The view taken by the Government of Assam at that time was that if Sylhet, as part of Bengal, were administered on the lines of an ordinary outlying district of that Presidency there would be a surplus and not a deficit; they felt that the only result of the existing uncertainty was that feeling on both sides was running higher, and they regarded it as of the utmost importance that the future of Sylhet should be definitely settled one way or the other at the earliest possible moment.

The Government of Assam revised their estimates of the financial position.

13. The Government of Bengal elicited a debate in their Council by moving a negative resolution on the 2nd December 1925 (before the revised figures prepared by the Government of Assam were known) recommending that the Government of India be moved to

The Legislative Council of Bengal declares itself in

favour of the
amalgama-
tion of
Sylhet with
Bengal;
December
1925.

abstain from taking any measures for the inclusion of the district of Sylhet in the Presidency of Bengal on the ground that the financial results would be injurious to that province. The Government of Bengal calculated that the annual deficit on the Sylhet district would be about Rs. 7 lakhs. Sir Hugh Stephenson emphasised the financial objections in the course of the debate, but said that the Government of Bengal would be content to abide by the vote of the Council. The negative resolution moved by Government was lost by 46 votes to 64.

In reporting the results of this debate to the Government of India (Serial No. 7 in Appendix I), the Government of Bengal stated that they did not wish to oppose the desire of the Bengal Legislative Council expressed after the full facts had been made known to them; the revised figures of the Government of Assam were under examination, but did not affect that decision.

The Legisla-
tive Council
of Assam
declares
itself in
favour of the
amalgama-
tion of
Sylhet with
Bengal; and
by a further
resolution
declares that
such transfer
should not
affect the
status of the
province of
Assam;
January
1926.

14. In Assam a special session of the Legislative Council to consider this question was held on the 6th and 7th January 1926. Two resolutions were moved by Rai Bahadur Sadananda Dowera and were adopted by the Council; the first, on which the official members did not vote, by a majority of 26 votes to 12, and the second unanimously. The two resolutions read as follows:—

“(a) This Council recommends to the Governor in Council that the district of Sylhet be transferred to Bengal.

(b) While it is not the intention of the Council to prejudice the transfer of Sylhet by any consideration as to the status of the rest of the province, Assam should not by reason of the transfer be deprived of any of the political privileges which it at present enjoys in common with other Governors' provinces or which may hereafter be extended to other Governors' provinces.”

In reporting the results of these two resolutions in the Assam Council (Serial No. 8 in Appendix I), the Government of Assam commented that within the last few months opposition to the transfer had been growing among the Muslims of Sylhet, while some of the Hindus were not quite so confident of the wisdom of the transfer as they previously had been; they were however now too far committed to withdraw. The members of the Assam Valley who voted with the majority had been influenced by two motives; they desired to allow Sylhet to realise what was considered to be a natural aspiration, and at the same time there was their own anxiety to be rid of Sylhet in order that the inter-valley rivalry, which they felt to be a bar to the progress of the province, might cease. The Government of Assam had ascertained that the people of the Jaintia parganas almost without exception desired to remain with Sylhet whether Sylhet went to Bengal or remained in Assam. In view of the fact that the Assam and Bengal Legislative Councils had now twice pronounced in favour of the transfer of Sylhet to Bengal, the Governor in Council would not feel justified in offering any

opposition to the fulfilment of their wishes, were it not for the uncertainty which had existed regarding the political future of Assam. For that reason he requested that any decision for the transfer of Sylhet to Bengal should be accompanied by an announcement regarding the political status of the rest of the province.

15. The question was then referred to the Secretary of State who ruled that the transfer of the district Sylhet from the province of Assam to the province of Bengal could not be dissociated from the question of the future form of administration of the province of Assam. This ruling of the Secretary of State was made known to the public in a communiqué dated the 16th June 1926 (Appendix II), in which it was stated that, agreeing with the ruling of the Secretary of State, the Government of India proposed to reserve these two questions, namely, the transfer of Sylhet, and its consequent effect upon the future status of Assam, for consideration by the Statutory Commission.

The orders of the Secretary of State announced to the public by Press Communiqué; June 1926.

APPENDIX I.

Papers regarding the proposition that the District of Sylhet should be transferred from Assam to Bengal.

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LETTER FROM THE GOVERNMENT OF ASSAM, No. POL.-1917-5585,
DATED THE 30TH OCTOBER 1924.

I am directed to forward for the information of the Government of India and for preliminary orders and extract from the proceedings of the Assam Legislative Council, at a meeting held on the 29th July 1924, relating to a resolution, which was ultimately carried, recommending the transfer of the districts of Sylhet and Cachar to Bengal.

2. The Government of India are aware of the history of the movement for the re-union of Sylhet with Bengal. The Chief Commissionership of Assam, as originally constituted in the Home Department's Notifications Nos. 379 and 380, dated the 6th February 1874 (Pub. A., January 1874, Nos. 157-67), did not include this district which was added to it a few months later by Notifications Nos. 2343 and 2344, dated the 12th September 1874 (Pub. A., September 1874, Nos. 222-33). A memorial protesting against the transfer of Sylhet to Assam, and purporting to emanate from "the inhabitants of the District of Sylhet" was submitted to His Excellency the Viceroy and Governor-General on the 10th August 1874 (Pub. A., September 1874, Nos. 258-59). The memorialists based their protest on the long association of Sylhet with Bengal, the absence of sympathy between Sylhet and Assam, the disadvantage of being yoked with a backward people, and the apprehension that the district would enjoy laws and institutions inferior to those to which it had been accustomed. The memorialists were informed, in a letter from the Government of India dated the 5th September 1874, that their prayer for retention in Bengal could not be acceded to, but that there would be no change whatever in the system of law and judicial procedure under which the inhabitants of Sylhet had hitherto lived, nor in the principles which applied throughout Bengal to the settlement and collection of land revenue. The decision appears to have been accepted as final, and no more was heard of the matter during the next 31 years. In 1905 (Pub. A., October 1905, Nos. 163-98), however, the formation of the province of Eastern Bengal and Assam re-united Sylhet with the Bengal districts with which it was most closely connected; and when the announcement of the dissolution of that province in December 1911 threatened again to separate Sylhet from Eastern Bengal an agitation was immediately set on foot for the incorporation of Sylhet in Bengal instead of in the reconstituted province of Assam. Hindu educated opinion was, and has remained, generally in favour of re-union with Bengal. Muhammadan opinion was at first divided, but as time went on experience was obtained of the working of the new Administration a number of influential Muhammadans who had at first supported the agitation for inclusion in Bengal realised that continuance in Assam was to the interest of the district and of their community. A largely attended public meeting of Muhammadans convened in August 1912 at the instance of the Anjuman-i-Islamia, Sylhet, and presided over by the President of the Anjuman, passed a unanimous resolution in favour of remaining in Assam. The agitation then subsided, but was revived in connection with the discussions regarding the proposed constitutional reforms. An address on the subject was presented to the Secretary of State and His Excellency the Viceroy by certain inhabitants of the Sylhet District in December 1917, and the question was also brought up in the Indian Legislative Council early in 1918 in a debate on the general subject of the adjustment of provincial boundaries. The Government of India commented on the matter in paragraph 13 of their Ninth Despatch, and agreed with

the view expressed in paragraph 246 of the Report on Indian Constitutional Reforms that redistributions of provincial areas should not be imposed by official action, and should follow rather than either precede or accompany reform. Meetings in favour of "re-union" were then organised. A "Sylhet-Bengal Re-union League" was formed, and in 1920 decided that a deputation should address His Excellency the Viceroy at his forthcoming visit to Assam, but, as the Surma Valley Conference meanwhile adopted non-co-operation and resolved that no addresses should be presented to His Excellency, the proposed deputation fell through and the League was dissolved.

The question of the transfer of Sylhet to Bengal was not raised during the life-time of the first reformed Assam Legislative Council. In the second Council it was brought up by one of the leaders of the Nationalist party in the shape of a resolution which, after being amended so as to recommend the transfer of Cachar as well as of Sylhet, was carried by 22 votes to 18.

3. While the mass of the population of Sylhet are indifferent in the matter, it is probable that the majority of the educated Hindus are in favour of the transfer of the district to Bengal though some important sections, like the Mahisyas, are against it. A protest against the transfer recently made at a public meeting in Sunamganj seems to indicate that at least a section of the numerically small but influential Brahmin community of the Surma Valley is also against the measure. A substantial body, probably the majority, of educated Muhammadan opinion is opposed to it. It is significant that the Council resolution was supported only by Muhammandans who are members of the Nationalist party, whilst it was supported by independent Hindus as well as by Hindu members of the Nationalist party. The Leading Muhammadan Association in the district was opposed to transfer in August 1912: and as recently as August 1924 there was so much difference of opinion between Hindus and Muhammadans on the subject that the Surma Valley Provincial Conference, sitting at Sunamganj in the Sylhet District under the presidency of Mrs. Sarojini Naidu, found it necessary to omit from its agenda (*vide* No. F. 682-24) a resolution advocating re-union with Bengal. The Council resolution as originally moved concerned only Sylhet, and was amended so as to cover Cachar as well at a late stage of the debate. The Government of Assam have no doubt that, as was indicated in the course of the debate, the educated Bengali-speaking Hindus of Cachar while not strongly in favour of absorption in Bengal, would desire to remain in association with Sylhet whether Sylhet continues to be in Assam or is transferred to Bengal; but they have no reliable information as to the wishes of other sections of the people of Cachar. It is clear that both in Sylhet and in Cachar further enquiry will have to be made as to the real wishes of the people before any action is taken in the matter.

4. Even a partial dismemberment of Assam as at present constituted would give rise to many serious difficulties, both administrative and political, and if its area and population were materially curtailed, it is doubtful whether it could retain the status of a Governor's province. The Governor-in-Council does not think it necessary to go into detail at present as he is uncertain whether the Government of India will be prepared to take up any questions of territorial redistribution whilst they are engaged with the larger problems arising out of the working of the reformed constitution; and he would be glad to be informed whether the Government of India would prefer that the matter should be taken up now or that it should be left over for a more convenient season. If the matter is to be taken up now, the first step necessary would seem to be to ascertain the general views of the Government of Bengal before instituting enquiries, which are bound to cause a certain amount of unrest, into the real wishes of the people concerned.

LETTER FROM THE GOVERNMENT OF BENGAL, No. 635-P., DATED THE
15TH JANUARY 1925.

SUBJECT:—*Proposed transfer of Sylhet and Cachar from Assam to Bengal.*

I am directed to refer to the Home Department letter No. F.-682-2-24-Pub., dated the 6th December 1924, in which the Government of India ask for the views of the Government of Bengal on the proposal to transfer the districts of Sylhet and Cachar from Assam to Bengal.

2. In reply, I am to say that upon the material before him the Governor-in-Council is unable to form any final opinion. The Government of Assam is most concerned in the scheme. If Sylhet is included in Bengal, however, it is certain that there will be an agitation to include Manbhum also, and the Government of Bihar and Orissa is therefore also concerned. The basis of the demand is sentiment and the proposal is likely to appeal to educated Hindu opinion in Bengal. It appears from the Assam Government's letter that, if this movement began, it would not stop with Sylhet. Cachar would also desire to be included and a further demand is to be anticipated for the re-union of all Bengali-speaking districts which would also include Goalpara as well as Manbhum. Moreover, if Sylhet and Cachar were included in Bengal the Lushai Hills would have Bengal as a boundary on three sides, and their inclusion would have to be considered. There is not at the present moment, however, any live demand in Bengal for the transfer of these districts. The Governor-in-Council, therefore, would prefer not to raise the question. If it is raised at all it would be primarily essential to examine the financial effect of the scheme, and until this is done the Governor-in-Council cannot commit himself to any final opinion.

FROM THE OFFICIATING CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM, APPOINTMENT AND POLITICAL DEPARTMENT, No. 1573-POL.—3860-A. P., DATED THE 11TH AUGUST 1925.

I am directed to refer to the correspondence resting with Mr. Sloan's letter No. F.-81—25-Public, dated the 6th May 1925, and to forward copies of letters from the Commissioner, Surma Valley and Hill Districts Division, and the Deputy Commissioners of Sylhet and Cachar. These show the attempts which have been made to comply with the instructions of the Government of India and to find out the real wishes of the people concerned.

2. To the history of the movement for the re-union of Sylhet with Bengal given in Mr. Botham's letter No. 5585-A. P., dated the 30th October 1924, the Governor-in-Council has nothing to add. Since then, in addition to the definite enquiries which have been made at the request of the Government of India, all the members of this Government have endeavoured in the course of their tours to ascertain the real state of public feeling. The subject has been extensively discussed in the press and on the platform, and unquestionably the bulk of educated Hindu opinion in the Sylhet district favours re-union with Bengal. It is nowhere claimed that material advantages will ensue to the people of Sylhet, and even the argument that Bengal is politically a more advanced province than Assam is now rarely used and has indeed lost much of its force. The desire for re-union is admittedly based on sentiment. The Bengali Hindu of Sylhet feels that he is looked down upon by his brothers in Bengal owing to his being included in a province inhabited by semi-civilised tribes and by the Assamese whom he considers to belong to a lower standard of civilisation than he does, and he feels keenly that he is not appreciated if indeed he is not actively disliked by the Assamese who in his estimation is his inferior. The leading Hindus of the Assam Valley if they do not actively dislike the Hindus of Sylhet at least disown any kinship with them and regard them with certain feelings of jealousy. The fact that the administration of Sylhet is carried on at a loss, a matter which will be discussed presently, gives them an additional reason for desiring that the district of Sylhet should go to Bengal, but it was undoubtedly in the main these feelings of jealousy that led the Assam Valley members of the Legislative Council to support the resolution adopted in July 1924.

3. Muhammadan opinion, as the Government of India were informed, is far from being unanimous. So far as the Governor-in-Council has been able to appraise matters, a considerable body of Muhammadan opinion is against the transfer, holding that this would be detrimental to the interests of their community. Certain thoughtful members of the Muhammadan community however already look ahead with some apprehension to the time when a Swaraj Government will be established in Bengal, and feel that when that day comes it is expedient that their community in Bengal should be strengthened by the addition of the Muhammadans of

Sylhet. The opposite opinion is well expressed in the notes by the Hon'ble Mr. Saiyid Muhammad Saadulla, the Minister for Education, which are appended to this letter. Mr. Saadulla speaks with authority for the Muhammadans of the Assam Valley, and voices their apprehension that with the Muhammadans of Sylhet taken away their community in what would be left of the present province of Assam would be so numerically weak and unimportant as to be unable to claim the favourable treatment which it at present receives. It will be observed further that he found considerable support for his views among the Muhammadans of Sylhet.

4. Reference was made in the debate in the Legislative Assembly in January 1925 to the Jaintia Parganas which are temporarily settled, and in your letter under reply you have asked that figures of receipts and expenditure for that area should be shown separately from the rest of the Sylhet district. It is a fact that the Jaintia Parganas are temporarily settled, and it is also a fact that this area formerly belonged to the Jaintia Rajas and originally formed no part of the old district of Sylhet. Moreover, as the letter from Maulvi Sikandar Ali Khandakar shows, there is a considerable feeling in these Parganas against a transfer to Bengal. If it is decided that the district of Sylhet should be transferred to Bengal, the question whether the Jaintia Parganas should remain in Assam will require consideration, but this is a detail which need not be further examined at present.

5. It will be convenient to deal here with the district of Cachar, and I am in the first instance to observe that in all the agitation that has been carried on in the press and on the platform since the resolution was adopted in this Legislative Council, Cachar has practically never been mentioned. The original resolution covered only Sylhet, and Cachar was added purely as an afterthought in order to obtain the votes of the representatives of that district. The Governor-in-Council is in complete agreement with the provisional views of the Government of India, that while there may be something to be said for the transfer of Sylhet, the transfer of Cachar is hardly a practical proposition. His Excellency in Council would further point out that Cachar has always been intimately associated with Assam, to which it gave a Kachari dynasty and in almost every district of which small bodies of its original inhabitants are to be found to this day. The Bengalis now inhabiting the district of Cachar, while forming the majority of the population, are mere settlers there and can hardly claim that they have annexed the district and have a right to demand its transfer to Bengal. Arguments based solely on numerical strength and linguistic affinity if admitted would, at the present rate at which immigration from Mymensingh into several districts of the Assam Valley is going on, entitle the Bengali settlers in these districts after a few years to assert that they were in the majority and that therefore the districts in which they had settled should go to Bengal. To the appreciation of the feeling actually prevalent in the district given in the letter from the Deputy Commissioner:

the Governor-in-Council has nothing to add, but one matter must be mentioned. The resolution recommending the transfer of Sylhet and Cachar was carried with the aid of the votes of the members representing the Assam Valley constituencies. The case of Cachar was really not discussed, and, if the Assamese members considered the matter at all, they were so anxious to get rid of Sylhet and the Sylhet is that they were prepared to let Cachar go as well if that was the only way of getting rid of Sylhet. Since then there has been a pronounced change of feeling, and several of the members who supported the resolution now admit that they made a mistake about Cachar. The Governor-in-Council does not think it necessary to discuss the case of Cachar further.

6. Appended to this letter are notes by the two Honourable Ministers, one of whom is a Hindu from the Sylhet district while the other is a Muhammadan from the Assam Valley. The note by the Hon'ble Rai Bahadur Promode Chandra Dutta states the case as forcibly as it could be put by the most devoted supporter of the movement for transfer, and makes claims on the grounds of numbers and linguistic affinity which the Governor-in-Council cannot but regard as extravagant. The other Minister, as has been stated earlier, puts forward the views of the Muhammadans of the Assam Valley and of at least a considerable section of those in the Surma Valley.

7. Annexed is a statement giving, as far as it has been possible to set these forth, receipts and expenditure in the districts of Sylhet and Cachar and in the Jaintia Parganas for three years. The statement even with the explanatory note attached to it is necessarily incomplete and many of the adjustments made are only approximate. No attempt has been made to apportion to the district of Sylhet its correct share of headquarters charges which include the cost of the Government, the Heads of Departments, the Secretariat and the Legislative Council, but this must be considerable. Its share of the provincial contribution to the Central Government is also omitted. It may safely be said that the cost of administering the Sylhet district is considerably in excess of the receipts from that district, and that the annual deficit of over four lakhs of rupees shown in the statement is almost certainly an underestimate.

8. The position as regards Sylhet may, therefore, be summed up as follows. The only reason for severing its fifty years old connection with Assam is the sentimental desire for re-union with Bengal which is felt by a section of the population, numerically small but undoubtedly influential, comprising the bulk of the educated Hindu community and a considerable portion, but probably a minority, of the educated Muhammadans. The masses of the people cannot be said to hold any views one way or the other. It is not pretended that Sylhet will gain any material advantage by the transfer. On the contrary, it is obvious that, as an outlying district of Bengal, it will receive much less liberal treatment and

consideration that it has hitherto received as the most important and populous district of Assam. These considerations have however been clearly put before the Legislative Council and the supporters of the transfer, and they have not been induced thereby to change their views. If the Government of India feel that their wishes should be accepted as representing the views of the majority of that section of the inhabitants of the district which is capable of giving an intelligent opinion, the Governor-in-Council would not feel justified in opposing the transfer, provided always that it could be arranged that what remains of the province of Assam should retain its status as a Governor's province. This aspect of the case, which has been cursorily mentioned in the previous correspondence, now requires more detailed examination.

9. In Mr. Botham's letter No. 5585-A. P., dated the 30th October 1924, is was stated that if the area and population of Assam were materially curtailed, it was doubtful if it could retain its status as a Governor's province. The present area of the province including the hill districts and the controlled frontier tracts and the Manipur State is 77,500 square miles. At the 1921 Census the population of this area, excluding part of the frontier tracts where no census was taken, was 7,990,246. If Sylhet were transferred to Bengal, the area of Assam would be reduced to 72,000 square miles of which the population in 1921 was 5,448,905. In area, therefore, Assam without Sylhet would be little smaller than Bengal or Bihar and Orissa, but it must be admitted that the population would be much below that of any other major province in India. It must however be remembered that the population of the Assam Valley is increasing rapidly owing to the influx of cultivators from Mymensingh, who are rapidly bringing large tracts of jungle and waste land into a high state of cultivation. During the last four years nearly 100,000 acres of waste land have been taken up by men of this class in the Assam Valley, and the population must have been increased in this way by more than a quarter of a million souls.

10. Another important factor is that as Sylhet is a deficit district the province of Assam would on the transfer of Sylhet to Bengal be in a much better position financially than it is at present. It would not merely be relieved of the burden of the Sylhet deficit, but it would probably be possible to abolish one of the existing Commissionerships and also to effect other savings in the cost of administration. Financially therefore the maintenance of the existing system of administration would be a lighter burden on the reduced province of Assam than it is on the existing province. In other respects it would be perfectly feasible to maintain Assam as a major province. The Legislative Council would represent a homogeneous area, while the administration of the hill and the frontier districts as backward tracts would not be affected. The cadres of the various services would have to be slightly reduced, but the time-scale system of pay now generally in force renders this a matter of small consequence, and the attractions of service

in Assam would be increased rather than diminished by the transfer of Sylhet to Bengal.

11. If however it were held that the reduced province of Assam could no longer retain the status of a Governor's province, the only alternatives would be its incorporation in Bengal or its reduction to the status of a Chief Commissionership with presumably a small Legislative Council, acting mainly, apart from legislation, in an advisory capacity, and without Ministers. The Governor-in-Council is strongly opposed to either alternative, which, he is confident, would be received with intense dissatisfaction by the great majority of the inhabitants of the Assam Valley. The loss of Ministers and the curtailment of the political privileges granted under the Reforms would be keenly resented, while as to the other alternative it is hardly necessary to elaborate the objections to doubling the area of the Bengal Presidency and adding to the cares and perplexities of the Bengal Government the charge of the rapidly developing province with an entirely different system of land revenue and the problems, entirely unfamiliar to Bengal, involved in the administration of the Hill and Frontier Tracts. If therefore the Government of India hold that the transfer of Sylhet to Bengal necessitates a change in the status of Assam as a Governor's province, the Governor-in-Council must unhesitatingly oppose the transfer of Sylhet to Bengal. It would be better to leave Assam as it is and to face the discontent of a section of the population of Sylhet than to arouse discontent throughout the Assam Valley. If however Assam without Sylhet were allowed to retain its present political status and privileges, His Excellency in Council would not, as already stated, feel justified in opposing the transfer of Sylhet to Bengal.

My views on this question have been well known to His Excellency the Acting Governor for years. I wish to be in Bengal and that for reasons which His Excellency is well aware of.

Since I became a Member of the Council I began to take interest in all parts of the province and in my budget speech of the second year of the first Reformed Council I advocated that the whole of Assam should go to Bengal and the more I think of the matter the more convinced do I feel that that is the proper course. I shall state my reasons briefly.

The total population of Assam is 7,606,230 according to the Census Report of 1921, of this 3,524,318 are Bengali-speaking and 1,718,712 are Assamese-speaking, the rest 2,363,200 being primitive tribes in different stages of civilisation and speaking a number of languages.

The province is therefore essentially a Bengali-speaking province and if Sylhet is to go why not the rest?

Again, if Sylhet goes, can the claim of Cachar and Goalpara be resisted? If the wishes of the people and racial affinity are any criteria, these two districts have the same claim as Sylhet. His

Excellency Sir John Kerr in his prorogation speech indicated as much (so far as regards Goalpara). The population of Cachar is 527,228, of whom 313,797 are Bengali-speaking. The population of Goalpara is 762,523, of whom 405,710 are Bengali-speaking. If the wishes of the majority are to prevail these districts must go—even Sylhet is not unanimous. Apart from the masses who cannot be expected to understand the issues—there is some difference of opinion even among the educated classes. I do not see on what ground Cachar and Goalpara can be resisted. The question is not whether Cachar and Goalpara ever formed part of Bengal; that is immaterial. The question is, are the inhabitants—the majority—Bengali-speaking? Even the Ahoms are not the original inhabitants of this province.

If Sylhet, Cachar and Goalpara go to Bengal what remains of Assam? Only the five districts of the Assam proper and the Hill districts. Can they form an administration?

Again if Sylhet alone goes over 23 lakhs of the Bengali-speaking people go away—what about the remaining 12 lakhs? The Bengalese who were the predominant people in the province will at once sink down to a very secondary position. As a Bengali I feel for them and would naturally like to take them with us.

Then, again, if the Muhammadans of the Surma Valley or even of Sylhet go away the Muhammadans of the Assam Valley will be in a minority and lose the strong position they now hold. I have spoken to some Muhammadan gentlemen of the Assam Valley and they fully realise the danger.

Then, again, if competition brings out the mettle in men, then the Assamese will suffer for want of people to compete with.

Lakhs of Bengal people are migrating to Assam; the influx will continue as Assam is the natural field for expansion of the surplus population of Bengal. If checked Bengal may retaliate as it will certainly be justified when it becomes autonomous—where will Assam then be?

To me it seems the solution lies in transferring all the plains districts to Bengal. The Hill districts should be administered by the Central Government through the Government of Bengal as an Agency area. This will also relieve the plains districts of the burden of maintaining the Hill districts at their own cost.

I know it is said that Bengal with Assam will be too heavy a charge. That is hardly correct. By transferring the plains districts we merely add a division. Sylhet and Cachar will go with the Chittagong Division which is admittedly too small. The six Assam Valley districts will form a Commissionership. As it is Bengal is too small a charge for a Governor and a Council of four Executive Members.

And we must not forget that Bengal, Bihar and Orissa for years formed a Lieutenant-Governorship.

If Cachar has spoken out its mind—*viz.*, that if Sylhet goes, it must also go—Goalpara is not inactive. It is moving in the matter and is just waiting to see what becomes of Sylhet.

Minus Sylhet, Goalpara will be the only permanently-settled district in the province in the midst of a number of temporarily-settled districts—the danger is not fanciful and Goalpara knows it.

P. C. DUTTA.

The 19th July 1925.

My personal view is that no provincial redistribution should be undertaken now. Opinion, even in Sylhet, is not unanimous and I am told that majority of Moslems there are against the transfer of Sylhet to Bengal.

Although some persons in the Assam Valley seem to think that the transfer of Sylhet to Bengal will be good riddance, in view of its being a deficit district, but a long view of the matter will convince them that it will not be an unmixed blessing. An advanced form of Government, like the present one, will be out of the question, with a province consisting of the Assam Valley alone. Once the principle of linguistic and revenue settlement affinity—two main planks in the present agitation—is conceded, there will be no logic to oppose the transfer of Goalpara as well.

Cachar was an after-thought in the Council at least, and if Cachar goes my opinion is that the Lushai Hills should also go; for otherwise, there will be no way to the Lushai Hills, but through Cachar—a Bengal district. The geographic situation is such that one must follow the other.

Speaking from the communal point of view, the transfer of Sylhet will spell disaster for both the Valley Moslems. For the Assam Valley, the power of numbers will be gone and with it the proportionate share of representation in self-government institutions and services will dwindle to an enormous extent.

Surma Valley Moslems, in Assam, obtained a dominating voice and share on account of their preponderance, but the experience of neighbouring Moslems in Bengal districts shows that they cannot expect such treatment and results, if they go to Bengal.

Recently, the Gauhati Anjuman sought my opinion in this question and I understand that the Jorhat Anjuman has already submitted a representation to Government over the same matter. The view point of these Anjumans is:—

Sylhet should not be transferred. But if the transfer is effected, then the Assam Valley should also be included in Bengal.

While leading the Assam Valley Muhammadan deputation before the late Mr. Montagu and Lord Chelmsford, at the time of the enquiry for Reforms, I said that Sylhet ought not to go over to Bengal, but if in deference to popular opinion, Sylhet is transferred,

then the Assam Valley should also be transferred subject to the proviso that all the Assam districts are kept intact and the privileges obtained in Assam be continued in Bengal, for the preservation of the Assamese nationality, culture and language, which is quite distinct from that of Bengal.

I still adhere to that view.

M. SAADULLA.

The 20th July 1925.

Since coming to Sylhet, I have been seen by a large number of persons both Hindus and Moslems and I enquired from most of them what was their real feeling with regard to the transfer of Sylhet to Bengal. I find opinion is sharply divided. Majority of Moslems are against going to Bengal, while majority of educated Hindus are in favour of the proposal. I met a few Moslems from distant Jaintia parganas as well. The English-educated people from there say that they are opposed to provincial redistribution, but two Maulavis said that they have been so long an adjunct to the district of Sylhet, and they do want to remain with Sylhet. In short, they have no pronounced opinion either way.

When opinion in the country is divided, I hold that Government also should oppose the disturbance of the *status quo*, as a very large amount of the public funds, chiefly contributed by the districts of the Province, other than Sylhet, has been sunk in public institutions in Sylhet.

M. SAADULLA.

The 27th July 1925.

LETTER FROM OFFICIATING COMMISSIONER, SURMA VALLEY AND HILL DIVISION, TO THE CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM, No. 237-T., DATED CAMP HAILAKANDI, THE 27TH JUNE 1925.

With reference to your letter No. Pol.-1318-2723-A. P., dated the 30th May 1925, on the subject of the transfer of the districts of Sylhet and Cachar to Bengal, I have the honour to forward copies of reports from the Deputy Commissioners of Sylhet and Cachar, a petition in original from Maulavi Sikandar Ali Khondkar purporting to be on behalf of the people of the Jaintia Parganas and a copy of a resolution passed by the Karimganj branch of the Srihatta Brahman Parisad, upon which I think comment is not necessary.

2. The Deputy Commissioner, Sylhet, is well in touch with the various grades of opinion in his district and I can add little to what he says. I think that it would not be unfair to say that the great bulk (numerically considered) of the people of that district have no "real wishes" at all. If they have any opinion it would

be as the Deputy Commissioner says either that of their landlord or of the latest orator at a village meeting: it would make no difference upon which side of the question the orator was speaking. But as the advocates of a change must necessarily be in the field before the no-changers, the Reunionist got a good start and have certainly made a considerably greater noise than their opponents. The line taken by the local press in connexion with this particular reference, that the matter had been already decided by the representatives of the people and that further enquiries were futile, may indicate an apprehension that the feeling against reunion is growing and likely to become more vocal: but this is at best an inference open to doubt.

3. Among those who have real wishes on the matter I have no doubt of the sincerity or of the vehemence of the wish of many for reunion, but I feel much less certain that they have examined in detail and carefully weighed the many considerations on both sides. Some indications may perhaps be obtained from among the candidates for Sub-Deputy Collectorships, all young men and graduates, who appeared before the last Selection Committee in this Division. The great majority but not all the Hindus were in favour of reunion and the great majority but not all the Muhammadans against it, but very few, especially among the Hindus, could give any reason for their preference, except the sentimental reasons (I do not wish in any way to undervalue them) which are familiar: almost the only material reason put forward by the Hindus was that Bengal was a richer province than Assam, a proposition which would hardly bear examination.

4. The feeling for reunion, and there are very few of the educated Hindus not in sympathy with it, is however none the less strong for not being based on calm reason, and it is certainly fanned by the airs of social superiority which the Bengali of Bengal is apt to give himself. The Bengali of Bengal on the other hand, so far as I have been able to gather from some of them who live in Assam, is by no means anxious to add to the number of the seekers after the loaves and fishes of his own province. In fine, I agree with the estimate of the Deputy Commissioner, Sylhet, in paragraph 5 of his letter. I should not omit to say that while the great bulk of the educated Hindus is strongly in favour of the change, several of the chief old Muhammadan zemindari families are quite bitterly against it.

5. In Cachar the impression I have derived is that while few are zealous for union with Bengal, there is a large majority among the better informed, including both Hindus and Muhammadans, who if Sylhet goes would wish to go too: provided the two districts are not divided I think the majority would prefer to remain as they are.

6. I am fully conscious that the above is a very inadequate compliance with the requirements of the Government of India, but I would suggest that in order to ascertain the "real wishes of

the people " it would be necessary as a preliminary to educate the people for some years in habits of political thought and discussion, and during and after that period to keep eyes and ears open for indications which would serve to check the cruder methods of question and answer. So far as I am aware the question was not a party issue at the last general election and has not been popularly discussed except at meetings at which the balance of opinion was over-poweringly on one side or the other.

LETTER FROM THE DEPUTY COMMISSIONER, SYLHET, TO THE COMMISSIONER, SURMA VALLEY AND HILL DIVISION, No. 5451-R., DATED THE 24TH JUNE 1924.

With compliments,

Reference your memorandum No. 372-73-P., dated the 2nd June 1925, about the transfer of Sylhet to Bengal.

Associations and individuals have been widely consulted; but it is beyond my powers to say what are "the real wishes of the people" of the district. More than 75 per cent. of the people are ordinary agriculturists, whose views it is almost impossible to obtain. In recent years there has been much propaganda on this question and many meetings have been held in the villages. A highly competent observer has informed me that probably 60 or 70 per cent. of the cultivators would give opinions, if asked. The opinions would be those of their landlords or of the latest orator at a village meeting, and the cultivators would be unable to support them with reasons, having no real feelings on the question. I agree with this view, but should not expect so high a percentage to give any opinion at all.

2. With very few exceptions the influential and educated Hindus are strongly in favour of the movement to Bengal. It is unnecessary to go into their reasons; their desire is undoubted. Some of the more cautious ones whose ambition is for Government appointments for their sons and relations are hesitant about the wisdom of taking the plunge but even they desire it on sentimental, if on no other grounds.

3. Educated Muhammadan opinion is more divided. The Anjuman Islamias of Karimganj and Sunamganj are against the transfer, that of Habiganj in favour of it, while the opinion of that of South Sylhet has not been received. There is known to be a division of Muhammadan opinion in that Sub-division. There are two Anjuman Islamias in Sylhet Sadr. One of these is a body which broke away from the parent body on *Khilafat* issue. That has passed a resolution approving the transfer. The other has been unable to hold a meeting. There are sharp divisions of opinion in Sylhet Sadr, the 'Young Party' being generally in favour of the change and the 'Old Party' against it.

4. Such Tea Garden Managers as I have consulted would prefer to remain in Assam.

In brief, I doubt whether 10 per cent. of the population take any real interest in the question at all. Among the educated and vocal part of the population, the majority—perhaps 75 per cent.—are in favour of the change. In my opinion those who wish to go feel more strongly on the question than those who wish to remain, possibly because their propaganda has been better organised.

LETTER FROM THE DEPUTY COMMISSIONER, CACHAR, TO THE COMMISSIONER, SURMA VALLEY AND HILL DIVISION, No. 1909-G., DATED THE 25TH JUNE 1925.

With compliments,

Reference your memorandum No. 372-73-P., dated the 2nd June 1925.

SUBJECT:—*Proposed transfer of the districts of Sylhet and Cachar to Bengal.*

The time allowed has been very short, and the problem of obtaining the real opinion of the people very difficult. An attempt was made to reach all communities through their recognized or informal associations, but though some views were obtained from the Mahishya (Patni) community in Hailakandi, and the Barmans (Cacharis) in Sadr, the opinion of the Manipuris Namasudras and Naths, not to speak of the nondescript tea garden population, went entirely unvoiced, while the mercantile community submitted only two written statements. These are all important communities. There are two questions, whether there is a case for transferring Cachar with Sylhet on its own merit, and whether Cachar should go with Sylhet if the latter goes.

I conceive that failing a true referendum which is impossible in the present stage of political and educational development, the wishes of the people can only be truly gauged from the views of the few enlightened members in each community, together with the reasons alleged for holding such views. The balance of opinion among Bengali-speaking people appears to be probably in favour of going to Bengal, though such feeling as exists is very lukewarm, and there is an element against the proposal. The relative strength of those for and against could I think be determined only from the reasons alleged. The remarkable thing is that only one reason has been alleged to me (though I have heard others from Mr. Chanda), viz., that union with Bengal will enable the Bengali-speaking people to develop on the same lines as their brothers in Bengal. This is not supported by any detailed argument, and some persons actually fear retardation owing to loss of the free middle vernacular education which is given in Assam. It has been freely stated to me that the root cause of the desire for union is that Bengal

families are in the habit of referring to Sylhet and Cachari families as "Assamese," and that this is considered a derogatory term. It is almost as astounding that this attitude of mind should prevail as that it should affect questions of administration, but there can be no doubt that it is the chief influence with those who demand union; I have sought in vain for more tangible evidence of grounds for the belief that union with Bengal would widen the path of progress in the educational or other spheres. It appears, however, that there is some idea current that permanent settlement and a tenant law would result. At present the population outside the towns have no idea as to what union with Bengal would mean, but so far as opinion has been or may be formed, I think these expectations would naturally influence rustics in favour of the proposal. Some landlords are opposed to the transfer simply because their fear of a tenancy law less favourable to them is less strong than their anticipations of benefit from a permanent settlement.

When the question for consideration is whether Cachar should remain in Assam even supposing Sylhet goes to Bengal, the majority of Bengali-speaking people in favour of transfer is much greater, though it is by no means unanimous. Cachar people naturally feel that they will lose their share of the great influence wielded by Bengalis in the province, that they will be an unconsidered minority, and they will not even secure fair treatment at such institutions as the Murarichand College, if they remain in Assam, while they will be debarred from enjoyment of facilities in the Assam Valley by a variety of causes. At present justice is administered by a Judge, Additional Judge and Sub-Judges of Sylhet. It is feared that, as was once held, Cachar would not be able to support a separate Judge, or, in the Civil field, Sub-Judge, and it is strongly felt that loss of the services of the Bengal judicial staff might result from transfer and make the administration of justice more casual.

All other communities who have expressed an opinion (*viz.*, Mahishya, Barman and Planter) are strongly against transfer, while some individuals express indifference. The mercantile leaders consulted are unable to see any advantage in transfer. Arguments are that Cachar would lose the intimate touch with Government due a Commissioner at Silchar and headquarters at Shillong, and would be involved in great expenditure over revenue and other appeals, that the financial needs of the district would be overlooked by a Government at Calcutta, and that the introduction of the Bengal Code would complicate daily life. One employer of labour (Indian) has expressed to me fear of the effects on labour in Assam of an administration conducted from Calcutta.

It is hard to judge the numerical weight of opinion, but I consider that a large majority of the population of Cachar would prefer that both Sylhet and Cachar should remain in the province of Assam. This includes a considerable element of Bengali-speak-

ing people. According to Subsidiary Table II, Chapter IX, of Part I, Census of India, Assam, 1921, Bengali-speaking people are 5,951 per 10,000 of the population. Reckoning the plains portions only however it appears that the percentage is about 62 of the total population. Allowing for an undetermined number of Bengali-speaking people who would wish to remain in any case in Assam, I consider that if it were possible to put the matter to a referendum, only about 10 per cent. would vote unless dragooned into the polling stations, and of these not much more than a bare majority would vote for transfer to Bengal assuming that Sylhet were to go in any case. I doubt if one per cent. have any conception of what results would ensue from the change.

I shall forward copies of opinions recorded, if required, but I do not consider that they will give much further light.

LETTER FROM MAULAVI SIKANDAR ALI KHONDKAR, MEMBER, NORTH SYLHET LOCAL BOARD, FROM JAINTIA, TO THE SECRETARY TO THE GOVERNMENT OF ASSAM (THROUGH THE DEPUTY COMMISSIONER, SYLHET), No. 162, DATED JAINTIAPUR, THE 19TH JUNE 1925.

With due respect and humble submission I beg to lay the following few lines for your kind consideration and favourable orders.

That in no time the people of Jaintia had received any convenience about the incorporation of the district of Sylhet into the Presidency of Bengal. But when the resolution was passed in the Council of Assam that the district of Sylhet should be incorporated into the Presidency of Bengal I travelled through the whole of Jaintia nearly for six months in order to know whether they agree to this resolution or not. But after a hard trouble I came to know that the people of Jaintia are quite unwilling to be incorporated with the Presidency of Bengal. They said that they do not object to join Sylhet with the Presidency of Bengal save and except Jaintia.

I therefore beg most humbly and respectfully on behalf of the people of Jaintia that the Government will kindly incorporate Jaintia into the province of Assam. I further pray that your honour will kindly move this claim of Jaintia people in the Legislative Assembly through the member of Legislative Assembly of Assam Government.

MEMORANDUM BY THE DEPUTY COMMISSIONER, SYLHET, No. 5452-R.,
DATED SYLHET, THE 24TH JUNE 1925.

Forwarded to the Commissioner, Surma Valley and Hill Division.

MEMORANDUM BY THE OFFICIATING COMMISSIONER, SURMA VALLEY AND HILL DIVISION, DATED SILCHAR, THE 25TH JUNE 1925.

Submitted to the Chief Secretary to the Government of Assam.

LETTER FROM THE PRESIDENT, SRIHATTA BRAHMAN PARISAD, TO THE COMMISSIONER, SURMA VALLEY AND HILL DIVISION, DATED KARIMGANJ, THE 23RD JUNE 1925.

I have the honour to forward herewith a copy of the resolution passed in the meeting of the members of the Karimganj Branch of the Srihatta Brahman Parisad held on the 22nd June 1925.

Translation of the Resolution.

The members of the Srihatta Brahman Parisad comprising the Brahmins residing in Karimganj assembled in a meeting unanimously resolved that—

- (1) The opinion expressed by Babu Bharat Chandra Chaudhuri, B.A., BIDYABARIDHI, the present Secretary of the said Parisad, against reunion of Sylhet with Bengal, is his personal opinion which has been given without consulting the members of the Parisad. For this reason this meeting does not support his opinion as being without foundation; and in fact wholly protests against it; moreover this meeting expresses its united opinion for reunion of Sylhet with Bengal.
- (2) A copy of this resolution be sent each to the Divisional Commissioner and the Deputy Commissioner of the district, and also to the Secretary of the Brahman Parisad, Secretary of the Sylhet-Bengal Reunion Committee, and to the manager of the local newspaper.

ABHAYA CHARAN BHATTACHARJI, *Mukhteer,*
President.

The 22nd June 1925.

NOTE.

This statement attempts to show receipts and expenditure in the district of Sylhet and Cachar and in the Jaintia Parganas for the years 1921-22, 1922-23, and 1923-24 and the average of three years.

The figures show the actual district receipts and expenditure and such adjustments as can be ascertained with approximate accuracy.

2. No account has been taken in the statement of the following charges of which a share should be debited to each of the two districts. It is impossible to estimate even approximately their appropriate share of these charges.

—	—	1921-22.	1922-23.	1923-24.	Total.	Average.
1	2	3	4	5	6	7
		Tra.	Tra.	Tra.	Tra.	Tra.
Divisional expenditure to be divided among all districts in the Sarma Valley and Hill Division.	Commissioner . . .	75	77	80	2,32	77
	Inspector of Schools .	17	17	26	60	20
		92	94	1,06	2,92	97
Headquarters expenditure to be divided among all districts of the province.	Governor	2,27	1,84	1,38	...	...
	Members and Ministers.	2,25	2,23	1,92	...	...
	Civil Secretariat .	3,12	2,94	2,81	...	...
	Public Works Department Secretariat.	1,75	1,59	1,64	...	...
		9,39	8,60	7,98	25,97	8,66
	Director of Land Records, etc.	59	62	58	...	...
	Examiner of Local Fund Accounts.	37	38	42	...	...
	Legal Remembrancer .	38	33	34	...	...
	Legislative Bodies .	67	62	60	...	...
	Inspector General of Police (including Criminal Investigating Department).	1,84	1,90	1,72	...	...
	Carried over .	3,85	3,85	3,66	11,86	3,70

		1921-22.	1922-23.	1923-24.	Total.	Ave- rage.
1	2	3	4	5	6	7
		Trs.	Trs.	Trs.	Trs.	Trs.
	Brought forward .	3 85	3,85	3,66	11,36	3,79
	Secretariat Press .	1,42	1 35	1,15	...	...
	Director of Public Instruction.	59	52	53	...	...
	Inspector General of Civil Hospitals and Inspector General of Prisons.	68	74	71	...	...
	Director of Public Health.	39	41	41	...	...
	Superintendent, Civil Veterinary Depart- ment.	37	42	26	...	...
Headquarters ex- penditure to be divided among all districts of the province— <i>contd.</i>	Director of Industries, etc.	34	39	45	...	...
	Conservator of Forests	80	64		...	...
	Director of [Surveys .	29	27	38	...	...
	Cost of "Brahma- kund" and "Sona- mukhi".	63	63	46	...	...
	Expenditure in Eng- land.	5,32	4,44	7,60	...	...
	Contribution to Bengal for the High Court.	95	95	95	...	...
	Cost of forms and stationery.	2,29	3,49	1,39	...	...
	Stamps supplied from Central Stores.	26	26	45	...	...
	Total .	14,39	14,51	15,13	14,03	14,67
	Total headquarters expenditure.	27,63	26,96	26,77	81,36	27,12

3. No account has been taken of interest on capital public works-expenditure. This is a fair charge debitable to the districts, but the amount of such interest cannot be easily ascertained.

4. The cost of the construction of the Murarichand College in Sylhet has also been omitted from the statement.

5. The figures given for Sylhet include the revenue and expenditure of the Jaintia Parganas.

The average annual receipts in that area amount to Trs. 3,45. The average expenditure, excluding any share of the charges incurred on account of the district staff of the several departments, is Trs. 66. It is impossible to determine the share of the district headquarters charges which could fairly be assigned to the Jaintia Parganas, and in the absence of such an adjustment the figures given are of little value.

Statement I.—Receipts and Expenditure in Sylhet.

Receipts.						Expenditure.					
Head of Account.	1921-22.	1922-23.	1923-24.	Total.	Average.	Head of Account.	1921-22.	1922-23.	1923-24.	Total.	Average.
1	2	3	4	5	6	1	2	3	4	5	6
	Trs.	Trs.	Trs.	Trs.	Trs.		Trs.	Trs.	Trs.	Trs.	Trs.
II.—Taxes on Income.	40	14	7	61	...	2.—Taxes on Income .	1	1	2	4	...
V.—Land Revenue	10,73	10,55	11,98	33,26	...	5.—Land Revenue .	1,18	2,05	2,36	5,59	...
VI.—Excise .	4,68	4,35	4,73	13,76	...	6.—Excise . . .	36	38	32	1,06	...
VII.—Stamp .	8,09	9,53	9,96	27,58	...	7.—Stamps . . .	19	23	23	65	...
VIII.—Forests .	1,42	1,63	1,86	4,91	...	8.—Forests . . .	50	62	61	1,73	...
IX.—Registration .	90	92	1,22	3,04	...	9.—Registration . .	73	80	79	2,32	...
XVI.—Interest . .	25	46	32	1,03	...	22.—General Administration.	4,38	3,96	3,81	12,15	...
XVII.—Administration of Justice.	48	52	60	1,60	...	24.—Administration of Justice.	3,80	3,86	4,07	11,73	...
XVIII.—Jails and Convict Settlements.	36	32	26	94	..	25.—Jails and Convict Settlements.	1,35	1,50	1,40	4,25	...
XIX.—Police . .	3	1,72	2	1,77	..	26.—Police . . .	5,10	6,47	5,38	16,95	...
XXI.—Education .	57	62	72	1,91	...	31.—Education . .	6,29	6,39	6,41	19,09	...
XXIII.—Public Health	14	12	8	34	...	32.—Medical . . .	1,60	1,58	1,55	4,73	...

XXIV.—Agriculture .	15	13	10	44	...	33.—Public Health .	74	72	78	2,24	...
XXV.—Industries .	...	...	1	1	...	34.—Agriculture .	1,25	1,05	91	3,21	...
XXX.—Civil Works .	13	13	14	40	...	35.—Industries .	3	19	23	45	...
XXXII.—Receipts in aid of Superan- nation.	40	40	20	1,09	...	37.—Miscellaneous De- partments.	3	4	3	10	...
XXXIV.—Stationery and Printing.	1	1	2	4	...	41.—Civil Works .	5,73	4,00	4,19	14,52	...
XXXV.—Miscellaneous .	44	7	—17	34	...	45.—Superannuation, etc.	1,30	1,18	1,33	3,90	...
						46.—Stationery and Print- ing.	...	...	...	...	...
						47.—Miscellaneous .	60	61	50	1,71	...
Total .	29,18	31,71	32,18	93,07	31,02	Total .	35,26	36,24	34,92	1,06,42	35,47
*Add—Share of the receipts from income-tax and stamp duty accruing to Assam but paid in Bengal.	...	..	..	...	65	† Add—Expenditure in- curred on Sylhet stu- dents and patients in educational and medi- cal institutions outside Sylhet minus expendi- ture incurred in Sylhet institutions on stu- dents of other parts of the Province.	...	...	...	...	51
Grand Total .	29,18	31,71	32,18	93,07	31,07	Grand Total .	35,26	36,24	34,92	1,06,42	35,98

* This figure is approximate only.

† This expenditure has been calculated on the proportion borne by the number of students, etc., to the total cost of the institutions.

Statement II.—Receipts and Expenditure in Cachar.

Receipts.						Expenditure.					
Head of Account.	1921-22.	1922-23.	1923-24.	Total.	Average.	Head of Account.	1921-22.	1922-23.	1923-24.	Total.	Average.
1	2	3	4	5	6	1	2	3	4	5	6
	Trs.	Trs.	Trs.	Trs.	Trs.		Trs.	Trs.	Trs.	Trs.	Trs.
II.—Taxes on Income.	25	9	22	56	...	2.—Taxes on Income . .	...	...	...	...	...
V.—Land Revenue	7,37	7,60	7,80	22,77	...	5.—Land Revenue . .	56	86	88	2,30	...
VI.—Excise . .	3,05	2,87	2,87	8,79	...	6.—Excise . .	21	23	24	68	...
VII.—Stamp . .	1,36	1,50	1,58	4,44	...	7.—Stamps . .	3	4	4	11	...
VIII.—Forests . .	92	1,09	1,09	3,10	...	8.—Forests . .	68	86	73	2,27	...
IX.—Registration . .	15	18	22	55	...	9.—Registration . .	16	15	16	47	...
XVI.—Interest . .	7	7	4	18	...	22.—General Administration.	2,44	2,07	1,33	5,84	...
XVII.—Administration of Justice.	9	10	15	34	...	24.—Administration of Justice.	24	24	29	77	...
XVIII.—Jails and Convict Settlements.	2	4	2	8	...	25.—Jails and Convict Settlements.	25	28	28	81	...
XIX.—Police . .	15	15	—6	24	...	26.—Police . .	1,45	2,04	1,64	5,13	...

XXI.—Education .	7	7	7	21	...	31.—Education .	1,84	1,79	1,50	5,13	..
XXIII.—Public Health .	2	2	2	6	..	32.—Medical .	63	76	69	2,08	...
XXIV.—Agriculture .	6	3	2	11	..	33.—Public Health .	29	21	13	63	...
XXV.—Industries .	...	...	...	...	..	34.—Agriculture .	17	16	15	49	...
XXX.—Civil Works .	8	8	24	40	...	35.—Industries .	..	...	...	...	...
XXXIII.—Receipts in aid of Superannuation.	13	18	15	46	...	37.—Miscellaneous De- partments.	..	..	...	..	...
XXXII.—Stationery and Printing.	..	..	...	...	..	41.—Civil Works .	2,38	2,02	1,91	6,31	...
XXXV.—Miscellaneous .	8	7	11	26	...	45.—Superannuation, etc.	34	40	37	1,11	...
Total .	13,87	14,14	14,54	42,55	14,18	47.—Miscellaneous .	54	57	73	1,84	...
* Add—Share of the receipts from income tax and stamp duty accruing to Assam but paid in Bengal.	...	...	...	...	30	† Add—Expenditure in- curred on Cachar stu- dents and patients in educational and medi- cal institutions outside Cachar.	...	...	..	...	17
Grand total .	13,87	14,14	14,54	42,55	14,48	Grand Total .	12,21	12,68	11,08	35,97	12,16

* This figure is approximate only.

† This expenditure has been calculated on the proportion borne by the number of students, etc., to the total cost of the institutions.

Statement III.—Receipts and expenditure in the Jaintia Parganas.

Receipts.						Expenditure.					
Head of Account.	1921-22.	1922-23.	1923-24.	Total.	Average.	Head of Account.	1921-22.	1922-23.	1923-24.	Total.	Average.
1	2	3	4	5	6	1	2	3	4	5	6
	Trs.	Trs.	Trs.	Trs.	Trs.		Trs.	Trs.	Trs.	Trs.	Trs.
Taxes on Income . .	1	2	2	5	..	Taxes on Income . .	..	..	..	..	..
Land Revenue . .	2,88	2,47	3,51	8,86	..	Land Revenue . .	46	48	37	1,31	..
Excise . .	14	13	15	42	..	Excise . .	1	1	..	2	..
Stamps . .	21	15	41	77	..	Stamps . .	..	..	1	1	..
Forests . .	3	3	4	10	..	Forests . .	..	1	1	2	..
Registration . .	4	3	5	12	..	Registration . .	5	4	5	14	..
Police . .	..	..	..	..	..	Police . .	12	12	12	36	..
Civil Works . .	1	1	1	3	..	Civil Works . .	4	5	3	12	..
Total . .	3,32	2,84	4,19	10,35	3,45	Total . .	68	71	59	1,98	66

TELEGRAM FROM THE GOVERNMENT OF BENGAL, No. 1197-P. D.,
DATED THE 28TH AUGUST 1925.

Reference your S1-Public, dated 19th August. Proposed transfer of Sylhet. No objection to publication of Bengal Government letter of 15th January or of views expressed in this telegram. Resolution supporting transfer carried in Bengal Council 19th August without division. Arguments limited to idea of union of Bengali-speaking people. Arguments of practical utility absent. Apart from financial considerations, Bengal Government would not oppose transfer and Legislative Council would favour transfer but financial considerations make present consent of Bengal Government impossible on following five grounds:—(1) Legislative Council had no opportunity to consider financial aspect and must have another opportunity with full knowledge of financial implications. (2) Bengal Government think that actual extra cost to Bengal is largely under estimated. (3) Bengal Government not convinced of necessity of exclusion of Jaintia parganas which aggravates financial objection. (4) Bengal Government would claim an additional assignment at expense of Assam. (5) Bengal Government consider even seven lakhs too high a price to pay to satisfy Bengal sentiment which though admitted is only a reflex of Sylhet sentiment. On August 19th amendment in Legislative Council urging transfer of Cachar as well was lost by eleven votes to two.

LETTER TO THE CHIEF SECRETARY TO THE GOVERNMENT OF ^{BENGAL}_{ASSAM},
No. F.-S1—25, DATED THE 24TH OCTOBER 1925.

I am directed to refer to the correspondence ending with your telegram No. 1197-P. C., dated the 28th August 1925 on the letter No. 1573-Pol.—3860-A. P., dated the 11th August 1925 on the proposed transfer of the districts of Sylhet and Cachar from Assam to Bengal. As the Government of ^{Bengal}_{Assam} are aware, the further discussion, which was to have taken place during the September session of the Assembly, of the Resolution moved on this subject in January 1925 by Mr. Aney did not mature, and the Resolution was withdrawn on the understanding that a fresh Resolution would be moved during the session beginning in January next. The Hon'ble the Home Member explained that the examination of the proposal had not reached a stage at which discussion in the Assembly would lead to practical results. The Government of India have now completed their preliminary examination of the question, and are of opinion that it is very desirable to come as soon as possible to a decision one way or another on the proposal, and with a view to facilitate the reaching of a final decision they have arrived at conclusions on certain preliminary issues which I am to state for the information of the Governments of Bengal and Assam.

2. In the first place the Government of India consider that the question of the transfer of the district of Cachar from Assam to Bengal need not continue to complicate the main issue of whether the District of Sylhet should be transferred or not. They observe that the original motion in the Assam Council merely recommended the transfer of Sylhet, and that at a late stage an amendment was moved adding Cachar. In the Bengal Council an amendment urging the transfer of Cachar was lost. The Government of India are of opinion that Cachar is an essentially Assam District, and that moreover its transfer to Bengal would mean the isolation of the Lushai Hills District. They consider that no case has been made out for investigating further the proposal regarding Cachar and suggest that this part of the discussion may now be regarded as closed.

3. In connection with the District of Sylhet itself the Government of India have examined the question whether it is possible to come to a decision regarding the Jaintia parganas with a view to limiting further the range of inquiry. They observe that there are some reasons for suggesting that the people in this area do not perhaps wish to be incorporated with the Presidency of Bengal, and that the parganas historically belong to Assam. In addition, they form a temporarily settled area, whereas the greater part of the remainder of Sylhet is permanently settled. On the other hand, these parganas are now a part of the Sylhet District and if they remain with Assam, they being a surplus area in the district, which as a whole is a deficit district, would increase the average annual deficiency of the revenues as compared with the expenditure of the district from some 4½ lakhs to seven lakhs of rupees. The Government of India consider therefore that the question needs further examination, and that it should be decided according to the most convenient geographical boundary between the two provinces, if it is decided to transfer the Sylhet District to Bengal. In this connection the question of how communications between Cachar and Shillong will be affected, if at all, if Sylhet is transferred to Bengal should also be reported. The Government of Assam are being addressed on the question and their final view is to request that this question may be further examined and definite views will be communicated to the Government of Bengal in due course.

report submitted to the Government of India

4. In paragraph 11 of their letter of the 11th August 1925 the Government of Assam raise the question of the future status of Assam if Sylhet is transferred, and suggest that it should be laid down now that if Sylhet is transferred Assam should retain its status as a Governor's Province. The Government of Assam apparently conclude that it is only if Assam without Sylhet is to retain its present political status that they would not oppose the transfer of the district. The Government of India regret that they are unable to accept the view that this may be imposed as a condition of transfer. They consider that the future status of Assam is a separate question which must be left an open matter to be decided on the merits after any transfer is made. The

Government of India observe however, that any change in the status of Assam would probably involve an amendment of the Government of India Act, and therefore for some time at any rate Assam would remain a Governor's Province. They are unable to state now whether they would be able to support the continuance of Assam as a Governor's Province after its population has been reduced by some 33 percentum.

5. Lastly, the Government of Bengal in their telegram, dated the 28th August 1925, have raised the question of the financial effect of the proposed transfer. They state they would claim a contribution from the Government of Assam as a set off against the deficit of the Sylhet District. The Government of India are of opinion that, although the Government of Assam will be better off financially after the transfer of the District of Sylhet, after that transfer the district will form part of the Bengal Presidency and there will be no reason why the Government of Assam should pay any contribution on account of it to the Government of Bengal. The Government of India recognise that this possible territorial readjustment has a bearing on the question of the Mes-ton settlement. If at the time when that Settlement was made Sylhet had formed a part of the Bengal Presidency the contribution payable by Bengal would presumably have been fixed lower and that payable by Assam higher than was actually done. As, however, the Government of Bengal, as a temporary measure, make no contribution to the Central Government the Government of India do not consider that this affords any ground for a contribution by the Government of Assam to them. This follows also because section 45A of the Government of India Act contemplates contributions from provincial Governments to the Central Government but not from one provincial Government to another, and any increase of the Assam contribution, which the Government of India do not suggest will take place, could not therefore be accompanied by a corresponding reduction of any contribution received from Bengal.

6. The Government of India trust that these conclusions will clear the ground for a final discussion of the question in the Bengal Assam legislative council. I am to request that this letter may be published with the papers which were distributed to the members of the Indian Legislature (copy enclosed) and that arrangements may be made for the subject to be discussed again in the Bengal Assam legislative council as early as possible after the people concerned have had a sufficient opportunity of studying the papers. The subject will come up for discussion in the Assembly in the session beginning in January next, and I am to request that the final views of the Government of Bengal Assam may be submitted to the Government of India as early as possible after the discussion in the Bengal Assam legislative council which should be arranged to take place on an early date.

LETTER FROM THE GOVERNMENT OF ASSAM, No. POL.-2228-6180-A.P., DATED THE 12TH DECEMBER 1925.

I am directed to refer to the correspondence ending with your telegram No. 81-Public, dated the 9th of December 1925, on the subject of the transfer of Sylhet, and to enclose a statement showing the receipts and expenditure of the district of Sylhet, including the Jaintia Parganas, for the year 1924-25. These figures should be read with the explanatory note which was attached to the statement of receipts and expenditure enclosed with my letter No. 1573-Pol.-3860-A. P., dated the 11th of August 1925, as the figures for 1924-25 have been prepared on the same basis and omit the headquarters, divisional and other expenditure referred to in that note.

2. I am to explain that this Government have been content to furnish actual figures for individual years and have attempted no forecasts as to the future. The later figures however suggest that the average deficit over a series of years will not be so serious as the earlier figures suggested and that in some years there may even be a small profit. It should be remembered however that expenditure in 1923-24 and in 1924-25 was restricted in view of the financial position of the Province. That restriction has now been removed, and there will be a growth of expenditure as well as a growth of revenue. In particular I am to mention that the largest increase in revenue has been under the head "VII—Stamps" due mainly to the increase in duties. With effect from the current year this Government have undertaken to allot for rural water-supply the whole of the estimated increase due to the new duties, and in pursuance of that undertaking they have allotted in the current year the sum of Rs. 1,25,000 to the district of Sylhet. Additional non-recurring grants to local bodies in Sylhet to the extent of Rs. 52,000 have also been allotted this year. A copy of this letter is being forwarded to the Government of Bengal.

Sylhet for 1924-25.

Revenue.		Expenditure.	
Major Heads.	Amount. (Thousand of Rupee	Major Heads.	Amount. (Thousand of Rupees.)
II. Taxes on Income .	14	5. Land Revenue. . . .	2,13
V. Land Revenue .	12,23	6 Excise	19
VI. Excise	4,58	7. Stamps	26
VII. Stamps. . . .	10,42	8. Forest	64
VIII. Forest	1,89	9. Registration	83

Revenue.		Expenditure.	
Major Head.	Amount. (Thousand of Rupees.)	Major Head.	Amount. (Thousand of Rupees.)
IX. Registration . .	1,28	22 General Administration .	3,66
XVI. Interest . .	15	24. Administration of Justice .	4,38
XVII. Administration of Justice.	68	25. Jails and Convict Settle- ments.	1,19
XVIII. Jails and Convict Settlements.	39	26. Police	5,12
XXI. Education . .	77	31. Education	6,89
XXIII. Public Health .	7	32. Medical	1,08
XXIV. Agriculture . .	27	33. Public Health . . .	1,01
XXV. Industries . .	2	34. Agriculture	76
XXX. Civil Works . .	17	35. Industries	18
XXXIII. Receipts in aid of Superannuation.	3	41. Civil Works	3,70
XXXIV. Stationery and Printing.	1	45. Superannuation, etc. .	1,40
XXXV. Miscellaneous .	30	47. Miscellaneous	52
Total Revenue . .	33,40	Total Expenditure	33,94
Add—Share of the receipts from Income-tax and Stamp duty accruing to Assam but paid in Bengal.	65	Add—Expenditure incurred on Sylhet students and patients in educational and medical institu- tions outside Sylhet <i>minus</i> expenditure in- curred in Sylhet insti- tutions on students of other parts of the province.	51
GRAND TOTAL . .	34,05	GRAND TOTAL . .	34,45

LETTER FROM THE GOVERNMENT OF BENGAL, No. 13523-P., DATED
THE 29TH DECEMBER 1925.

I am directed to refer to Home Department letter No. F.-81—25-Public, dated the 24th October 1925, on the subject of the transfer of the district of Sylhet from Assam to Bengal, in paragraph 6 of which it was suggested that the letter together with the papers enclosed therewith might be published and arrangements

made for the subject to be discussed in the local Legislative Council. The Government of India also asked for the final views of this Government after the discussion in Council.

2. I am to say that the letter and its enclosures were circulated to the members of the Bengal Legislative Council and an attempt was made to elicit a real debate by tabling a negative resolution in the Council session which commenced on December 2nd last. The motion was lost by 46 votes to 64 on a division and I am to enclose for your information a copy of the debate which took place.

3. As indicated in the Hon'ble Sir Hugh Stephenson's speech the Governor in Council do not wish to oppose the desire of the Council for the transfer of Sylhet to Bengal as that desire was expressed after the full facts, so far as known to this Government, had been placed before them. It will be observed that on the figures supplied by the Assam Government the annual deficit was estimated by this Government at 7 lakhs. The Government of Assam have now reported on the basis of the figures of 1924-25 that in their view the deficit will not be as great as they had anticipated. These figures are now under examination but I am to say that the result will not affect the decision of this Government indicated above.

GOVERNMENT RESOLUTIONS.

Inclusion of the District of Sylhet in the Presidency of Bengal.

The Hon'ble Sir Hugh Stephenson: I beg to move that this Council recommends to the Government that the Government of India be moved to abstain from taking any measures for the inclusion of the district of Sylhet in the Presidency of Bengal on the ground that the financial results would be injurious to Bengal.

On the 19th August Babu Akhil Chandra Datta moved a resolution in this Council, which was passed, to the effect that the Government of India be informed that the Council was in favour of the inclusion of the district of Sylhet in the Presidency of Bengal. On that occasion I explained the attitude of Government. We were entirely sympathetic to the sentiment behind this resolution but then we wished to examine further what the resolution actually would mean if carried out and we felt that we had not before us at that time the data for examining the questions. I therefore expressed the intention of Government of abstaining from voting if the matter came to a division. Now, Sir, I do not want the Council to think from the form of my resolution that Government have in any way altered their views. The form is in a negative form mainly because an affirmative form would obviously not elicit any real debate, and what the Government of India wished to have is the reasoned opinion of this Council before they decided the question. We want to be quite sure that the Council, whatever vote they give, are not merely expressing a

pious wish but are definitely undertaking a real responsibility. We now have the figures supplied by the Assam Government and we have published all the papers and doubtless the members of the Council have studied them. There is no reason to suppose that the Assam figures are weighted in either direction, nor is there any reason to suppose that the Assam Government are interested in making the deficit bigger than it really is, or, on the other hand, that they are concealing any deficit. We must, so far as this Government is concerned, take the figures as given to us by the Assam Government. We have no other materials, and we must subject these figures to such examination on general principles as we can. Now the Assam Government figures show a deficit of Rs. 4,31,000 in the district of Sylhet: that is to say, the actual expenditure on the administration of Sylhet is Rs. 4,31,000 more than the revenues derived in that district. These figures do not include overhead charges of any kind: they are merely district charges. Now we have examined these figures with the help of our Finance Department and we have gone on the principle that where there has been a continuous rise or a continuous fall either in the receipts or the expenditure, the last year's figure is taken, as that obviously is the more correct, and where the figures are more or less constant we have taken the average. Working on this principle will, I think, be regarded by the Council as reasonable. The deficit according to us is slightly higher than that given by the Assam Government and I am prepared to give the reasons for this to anybody who desires to have them. We make out that the deficit will actually be Rs. 4,62,000. Whether the deficit will be Rs. 4,62,000 or Rs. 4,31,000 according to the Assam Government, the difference is small. But there are certain other figures which are not included in the Assam Government figures which we are bound to take into consideration in this connection. In the first place, the Assam Government figures were for the year 1923-24 that is up to the 31st March 1924. Therefore it leaves out of account entirely the increased expenditure due to the recommendations of the Lee Commission, as they did not come into force till 1st April 1924. The same remark applies to certain readjustments in the matter of the Railway Police charges. The Assam Government figures also leave out the leave and superannuation charges paid in England on account of officers employed in the Sylhet district. Further, the Assam Government now pays us Rs. 90,000 as contribution towards the cost of the High Court. I understand that the bulk of the work that comes from Assam to the High Court comes from the Sylhet district, and therefore I think the Assam Government will, if the district of Sylhet is transferred, come up to us with a claim that the amount should be reduced possibly by at least half. Then there are certain other small increases in expenditure which should be taken into account, namely the charges on account of the Legislative Council, extra printing charges and possibly overhead charges. The addition of a large district like Sylhet may necessitate slight increases in the establishment in the various offices such as the Legal Remembrancer's office and other offices.

Well, adding these to the other established deficit, our Finance Department is of opinion that the actual deficit on account of the transfer of Sylhet will not be far short of Rs. 6 lakhs.

Then there is another point. The Assam Government figures of a deficit of Rs. 4,31,000 besides leaving out those various charges that I have just enumerated include the revenue and expenses of the Jaintia Parganas. Now the Government of India in their letter, which has been published, have said very definitely that the question of the transfer of the Jaintia Parganas must be decided not on any consideration of whether we want Sylhet or not but on the sole consideration of what is the most convenient geographical boundary. I do not know the country myself but I am informed that there is very little chance of the Jaintia Parganas being transferred with Sylhet. That of course I can only say comes to me from people who do know that particular part of the country and who say that given that criterion the Jaintia Parganas will not be transferred. I think, therefore, that in considering this question we have at all events to reckon on the possibility (I will even say probability) of our not enjoying the surplus of the Jaintia Parganas. The surplus from the Jaintia Parganas is Rs. 2,79,000. We must therefore add Rs. 2,79,000 to the deficit of the Sylhet district. Now, if we take over Sylhet district and do not get the Jaintia Parganas the deficit according to our figures will amount to something over Rs. 8½ lakhs. These are the figures of the Assam Government, they are not the Bengal Government figures but they are based on the records of the Assam Government which are administering the district for the time being. These figures of the Assam Government have been impugned in a letter from Mr. Chanda which has been very widely circulated and published in the press. I have had the advantage of a long discussion with Mr. Chanda in company with the Finance Member and we have with him examined all the figures. We examined all the figures he has given us and told him how we got at our figures and we have listened to anything he had to say to show that any of those figures are wrong. I think I am not doing him any injustice when I say that he could not show that any of our figures are wrong. He said that the Assam Government figures must have omitted something. We went into his figures in his published letter and we examined them one by one and I am afraid that Mr. Chanda is asking us to base more on hope than it can possibly carry.

There is nothing in Mr. Chanda's figures which really challenges the Assam Government figures except the statement that next year owing to the resettlement of the Ilam there will be an increase of Rs. 1,25,000 in land revenue. I don't know whether these are official figures which Mr. Chanda cited and I don't know how much of these estates that will be resettled are in the Jaintia Parganas and how much lie in the original district of Sylhet. But giving Mr. Chanda full credit for that and for any economy that may be possible owing to the Jaintia Parganas not coming over we still have a deficit of something like Rs. 7 lakhs.

Now I want to emphasize the fact that it is not the object of this Government to make out a case against the taking over of Sylhet. So far as the taking over of Sylhet is concerned we have no objection. There will be, as far as I can see, no administrative difficulty and no administrative inconvenience; on the other hand I understand from Mr. Chanda that there will be no administrative advantage but there will be sentimental advantage and social advantage. Now all we want is that the Council shall realize what the exact consequence of taking over the Sylhet district is. The Government of India have definitely said that we cannot hope for any assignment or any readjustment of revenue either from themselves or from Assam if we take over Sylhet. Therefore, the position is that if we take over Sylhet we have the recurring deficit of Rs. 7 lakhs. It is no use trying to deceive ourselves by saying that we will find the Rs. 7 lakhs by economy elsewhere; we know we shan't; we know what it actually means is that, taking an optimistic view, for two years we shall have to hold up all further schemes for increased recurring expenditure in this province. It is being urged that we should not decide a question of this kind by mere sordid financial considerations and the advocates of taking over Sylhet say should we reject a district that is now in Bengal if we found it could not pay. My answer to that is that the onus is on those who wish to alter the *status quo*. Sylhet has been in Assam since 1874 and if we want to alter that position then I only wish the Council to note the exact consequence of it and what exactly is the price they will have to pay for it. If after full consideration the Council decide that the price is worth paying then their decision with the debate will be forwarded to the Government of India with whom the final decision rests and this Government will put no further obstacles in the way, but I do ask the Council not to decide this merely on the ground of sentiment. I do not wish to say a word against the proper weight that sentiment ought to have in matters of this kind but what I want is that the Council should understand that this is not merely expressing a wish, a pious hope, that Sylhet will come over, it is a definite undertaking of the responsibility to meet 7 lakhs of ruppes a year in order to take over Sylhet; and do not let us deceive ourselves with the hope that we may scramble out of this. Mr. Chanda in talking it over suggested that we must first decide to take over Sylhet and then discuss the question of what the deficit is and how we are going to meet it. If it turns out that we can eventually reduce this deficit well and good but I want the Council to come to a decision as to whether they are prepared to take over Sylhet with the full knowledge that in all probability we shall have to meet this deficit of Rs. 7 lakhs.

Babu Akhil Chandra Datta: The ground that is now urged against the reunion of Sylhet with Bengal is the financial deficit of the district. Speaking for myself I must admit that I am labouring under a great disadvantage as regards the figures for we have no information of our own regarding them especially those furnished by the Government of Assam. Let us however examine

them as to how far they are reliable. We are told that according to the Assam Government's figures the deficit is Rs. 4 lakhs and odd. When this matter was being discussed in the Assembly at Delhi the Assam Government's representative stated that the deficit was only Rs. 1 lakh. That is, Sir, the Assam Government's first version—Rs. 1 lakh, and not Rs. 4 lakhs, or, for the matter of that, Rs. 7 lakhs. The Assam Government supplied Mr. Chanda with a statement on the strength of which Mr. Cosgrave made that assertion in the Assembly. I must admit that after that a second revised statement was supplied by the Assam Government in which it was said that the annual deficit was Rs. 4 lakhs and odd. Now the question arises as to how this figure of Rs. 4 lakhs was arrived at. We are told that the average has been taken of some years. We are told that the deficit of the Sylhet district for 1921-22 was Rs. 6 lakhs, in 1922-23 Rs. 4½ lakhs: in 1923-24 Rs. 2,74,000. I would invite the attention of the Council here, Sir, to two things. In the first place, the deficit is gradually decreasing. Now, Sir, when the deficit is gradually decreasing from year to year is it fair to take the average from that? In the second place the deficit for 1923-24 is Rs. 2,74,000 as I have said but we have not been supplied with the figures for 1924-25. This is one side of the shield: now let us turn to the other side. We know that in Sylhet there is any amount of land temporarily settled. All lands are not permanently settled in Sylhet and the Ilam settlement is going to take place very soon which Mr. Chanda's note tells us will give a revenue of about Rs. 1,25,000. I am not sure of the figure. The fact that the revenue will be uniformly and progressively expanding has been, I am afraid, wholly overlooked in considering the figures.

Then we find there is a pargana in Sylhet called Mantala. For reasons which I do not know the revenue of that pargana, although the land is in Sylhet, is paid in Bengal. The Assam figures do not include this amount of Rs. 52,000; the Assam figures also do not include another figure, namely, about Rs. 65,000, the share of receipts from income-tax and stamp duty accruing to Assam but paid in Bengal. The share of Sylhet in that is Rs. 51,000. I shall not take the Council through the details of these figures. All these details are known to the Hon'ble Member as he has admitted that he has discussed the matter with Mr. Chanda, and he has been furnished with Mr. Chanda's statement. We find, therefore, that on account of these two items the revenue is not credited to Sylhet, and owing to certain increase that is expected, we have got to increase the revenue by Rs. 1,75,000.

Then there is another item, stamps for instance. On account of the amending Act passed in 1922 increasing the stamp duty, there will be a saving of Rs. 84,000 under this head if Sylhet comes to Bengal, that being the amount paid to Assam out of the Sylhet revenue.

Taking all these facts into consideration, Mr. Chanda has shown that instead of a deficit, there will really be a surplus of Rs. 39,000. These figures were supplied to the Assam Govern

ment by Mr. Chanda and they were asked to challenge them. In reply Mr. Chanda was told by the Chief Secretary to the Assam Government that the figures were being examined by the Assam Government. They could not say that the figures were incorrect; they only replied that the figures were being examined. Since then, up till now, I have been told by Mr. Chanda that the Assam Government has not said that these figures are incorrect.

A further objection has been raised here that there will be a rise in expenditure on account of the Lee Commission's recommendations. I should not like to say much on this point, but I really fail to see how the increased prospects of the members of the Civil and other services are to stand in the way of the transfer of Sylhet to Bengal.

Then about Jaintia Pargana, it has been said that geographically the transfer is undesirable. On this point, I have got a memorial here submitted to the Viceroy by the people of that pargana. In that memorial they say that geographically the pargana constitutes a component part of Sylhet—.

Mr. President: Order, order. Your reference to the Jaintia is a little out of order; does it arise out of the resolution?

Babu Akhil Chandra Datta: One of the arguments raised by the mover is that if Jaintia is not transferred, then the deficit will be larger because in Jaintia there is a surplus; and the argument has been advanced that there is no possibility of Jaintia being transferred to Bengal, as geographically Jaintia could not come to Bengal. That was his argument.

Of course, it has been very candidly admitted by the Hon'ble Mover that he does not know much of Jaintia, and therefore if he will allow me, I will tell him what is the opinion of the Jaintia people themselves. They say that geographically Jaintia is a part of Sylhet and not a part of the rest of Assam, and we must remember that there is a surplus of Rs. 2 lakhs there.

Then, Sir, on the question of deficit it is a mere drop in the ocean; a deficit of Rs. 8 lakhs according to the figures of the Bengal Government, a deficit of Rs. 4 lakhs according to the second statement of the Assam Government, and a deficit of only Rs. 1 lakh according to the original statement of the Assam Government, is, I say, a mere drop in the ocean.

One word about these figures; we cannot possibly rely too much on these figures. I do not mean to suggest that they are dishonest figures, but what appears to me is that there are so many figures from so many quarters on this particular matter, that it is quite clear that Government themselves do not know what the correct figures really are.

The matter has been discussed in the Legislative Assembly and Mr. Cosgrave gave the first figures supplied by the Assam Government which gave a deficit of only Rs. 1 lakh. On another occasion the Assam Government says the deficit was Rs. 4 lakhs; all I can say is that too much reliance cannot be placed on these

figures. Even supposing that these figures are absolutely reliable, I still say that they are a mere drop in the ocean. We know how lakhs and lakhs are squandered here and there and everywhere and a deficit of Rs. 1 lakh or Rs. 4 lakhs ought not to stand in the way of this transfer.

We must remember that Sylhet was originally a part of Bengal; was it in a state of deficit at the time it was taken over by Assam? *Prima facie*, there is no reason why Sylhet ought to be a deficit district. We have not been told that there is anything extraordinary or unusual in Sylhet which should make it a deficit district. On the other hand, we know that there are temporarily settled estates in Sylhet, and there are periodical settlements with the result that there is a rise in revenue. There must be something wrong somewhere in the position of the Assam Government regarding the figures.

Lastly, it has been said that if anybody wants to retransfer Sylhet to Bengal the onus will be upon him. I should put it like this. We are not asking for anything new, we are asking only for the restoration of the *status quo*, and if anybody opposes that, the onus is on that party.

I am only asking this Council and the people of Bengal not to perpetuate the injustice that has been done to Sylhet by separating it from Bengal.

At this stage the Council was adjourned for ten minutes.

After the adjournment.

Mr. W. L. Travers: I should hesitate ordinarily to intervene in a debate of this description where sentiment is so much associated, were it not for two facts: first of all regarding myself, I have recently been able to make personal investigation and have talked to many gentlemen domiciled in Sylhet on this matter, and secondly in regard to the financial state of the question which has been adduced by the Hon'ble Member. First of all, I took the opinion of the educated Hindus upon this question of the transfer of Sylhet to this province. I found in talking to many Sylhet gentlemen that although it is true that there are a very considerable majority of their community in favour of it, yet there are a large number of Hindu gentlemen who object to this transfer—.

Babu Akhil Chandra Dutta: On a point of order. We are not concerned with other reasons; the resolution is concerned with one ground only, namely, the financial deficit.

Mr. President: Mr. Travers, you should confine your remarks to the terms of the resolution itself. The resolution is that objection be taken against the inclusion of Sylhet in the Presidency of Bengal on the ground that the financial results would be injurious to Bengal, and not on other grounds.

Mr. W. L. Travers: Do I understand that we are discussing only the financial aspect?

Mr. President: That is so.

Mr. W. L. Travers: Very well, to refer only to the financial aspect, the question is who will be most greatly affected by this change in the long run. Surely there is only one reply to that, it will only affect the raiyats, the cultivators both in this province and in Sylhet. In this province we know that to a great extent owing to lack of education we cannot obtain the opinion of a large majority of the people of Bengal. If they were able to express their opinion, would they say "transfer Sylhet," or would they say "we should like the sum of Rs. 7 lakhs to be spent in furthering the betterment of water-supply or the social condition of the people". Secondly, to look at it from the financial point of view of the raiyats in Sylhet alone, I am of opinion that in the smaller province of Assam the raiyats of Sylhet will obtain a lower taxation and owing to the smallness of the province, a greater attention from the Government of Assam than in this province. I am of opinion that for the present at any rate it would be wise for this Council to delay this matter until education is far more advanced so that we can obtain the real opinion of the people in the matter.

Maulvi Md. Nurul Hug Chaudhury: I am not concerned with the financial aspect of Sylhet, whether it is a deficit district or it is a growing district. I am much more concerned with the community which I represent myself, I mean the Mussalman community of Bengal. At the present moment, if Sylhet comes back to Bengal, the proportion of Muhammadans in Bengal—.

Mr. President: Order, order. You must confine yourself to the terms of the original motion. The motion deals with the objection to the inclusion of the district of Sylhet in the Presidency of Bengal on the ground that the financial results would be injurious to Bengal. You must confine your remarks to the financial aspect of the question.

Maulvi Md. Nurul Hug Chaudhury: I am not going to speak about the financial aspect.

Dr. H. W. B. Moreno: I should like to oppose the resolution of the Government as moved by the Hon'ble Member. After hearing the speeches of the Hon'ble Sir Hugh Stephenson and Babu Akhil Chandra Datta, I am driven to the conclusion that the old resolution, which the Council passed in August last, should stand. We have heard the Hon'ble Member in charge, who quotes to us certain figures; those figures have been openly disputed by the other side. An old wit has said that there are three things: first lies, next black lies and lastly statistics. I do not place much value on statistics, because statistics usually are a mere juggling with figures. If it be only the financial aspect which stands in the way, then I think very little has been said

on behalf of the Government against the transfer of Sylhet to Bengal. It was originally in Bengal and unless and until it can be proved then there will be a serious financial loss to the province as a whole, the old resolution of the Council should stand. The Government are anxious to spend several crores of rupees for putting a few rods of iron across the Hooghly, but they fight shy of including Sylhet in Bengal for fear of the loss of a few lakhs. Their attitude seems to be that of straining at a gnat while swallowing a camel. I submit, Sir, that no strong case has been made out against the transfer so far as financial considerations are concerned, hence I am opposed to the resolution framed by the Government.

The Hon'ble Sir Hugh Stephenson: I had no wish in framing this resolution to exclude any general discussion which any member might have wished on this matter and I may point out that it is Babu Akhil Chandra Datta who has objected to the discussion of the matter on other than financial grounds only. Well, Sir, there has not been, I think, anything in the debate, since I spoke last, which really alters my position. The last speaker displayed a financial insouciance which is exactly what I do not want the House to follow. Turning to Babu Akhil Chandra Datta's argument, he said that at Delhi the Assam representative placed the deficit at Rs. 1 lakh and now the Assam Government are placing it at Rs. 4 lakhs and that, therefore, the Assam figures are unreliable. Well, Sir, at that time it was known generally to the Assam Government that Sylhet was a deficit district, since then they have gone into actual figures and now they have given us the actual figures of deficit. Then, Sir, Babu Akhil Chandra Datta has practically admitted that he does not understand the figures and so far as I can see the whole of his speech—is merely a repetition of Mr. Chanda's letter and in the long run it amounts to exactly the same thing as Mr. Chanda's argument, namely, let us trust to Providence to help us and wait for something to turn up. The main argument of Babu Akhil Chandra Datta is that three years ago the deficit was Rs. 6 lakhs, two years ago Rs. 4 lakhs and last year it was Rs. 2 lakhs, and that therefore this year it must be nil. But I would ask the Council whether that sort of argument is the sort of thing which the Council ought to accept when they are coming to a serious decision. It is, as I have said, placing more on hope than it is normally able to carry. We have got the actual figures taken from the Government accounts, and I submit there is no reason to suppose that the figures we have received are incorrect. I think in deciding whether we are going to take over Sylhet or not, we should proceed on the basis of the information before us as to what it is going to cost us. Then, Sir, Babu Akhil Chandra Datta has alluded to the rise in receipts last year; this is an example of certain pitfalls which we must guard against: the last year's figures which show a considerable increase of revenue under "Land revenue" include considerable arrear collection which was responsible for an increase of something over Rs. 1 lakh. Then Babu

Akhil Chandra Datta claimed something like Rs. 50,000 revenue which ought to have been paid in Sylhet, but which was paid in Bengal, that is beside the point, it will not mean any extra receipts if we take over Sylhet; whether the money is rightly paid in Bengal or not, we have got it and it will not be an additional receipt; all we can say is that if we don't take over Sylhet, they might possibly set up a claim that we should pay to them that amount instead. In any case it does not affect the deficit. Then, Sir, he goes on with Mr. Chanda's letter and alludes to expected receipts on account of income-tax earned in Sylhet but paid in Bengal. Well, Sir, we receive a certain share of the income-tax collected by the Government of India and that share is limited to a certain percentage on the collection over the standard figure. And if we take over Sylhet we shall not get one pice from the Government of India. The whole of the income of Sylhet will go to the Government of India and owing to the fact that——.

Dr. Bidhan Chandra Roy: May I ask the Hon'ble Member if the standard figure is fixed or based on percentage?

The Hon'ble Mr. J. Donald: The standard figure at the present moment is based on the figures of 1920-21 and the Government of India get the income-tax on that standard figure; and if there is anything over the standard figure we get a certain percentage of that.

The Hon'ble Sir Hugh Stephenson: Then it is said that we will get about Rs. 84,000 from the stamp duty if Sylhet is taken over, but if you read Mr. Chanda's letter you will find that the stamp revenue is earmarked for a special purpose, namely, water-supply, and for this purpose Rs. 1,36,000 has been allotted to Sylhet. I can find no trace of this payment in the figures submitted by the Government of Assam. If then we take over Sylhet, and if we have to give a definite promise to give this Rs. 1,36,000 to Sylhet, then the deficit must be increased by this amount. Then, Sir, Babu Akhil Chandra Datta asks why should there be a deficit at all? But as a matter of fact it is a deficit district and we are asked whether we are prepared to pay some Rs. 7 lakhs for the purpose of taking it over and I do ask the Council not to decide anything without full consideration of what it means. If the Council think that it is worth while, by all means let the change take place. But do not vote in favour of taking it over in the hope that afterwards some arrangement may be made to get rid of the deficit. My whole object has been to give the Council certain facts to enable it to come to a reasoned decision on the point—are we prepared to take over the Sylhet district at a considerable cost to us, and if we are, I have nothing more to say.

Dr. Bidhan Chandra Roy: May I enquire of the Hon'ble Member whether Sylhet was a deficit district in 1879?

The Hon'ble Sir Hugh Stephenson: That I cannot possibly say.

The motion was then put and a division taken with the following result:—

Ayes.

ABBOTT, Mr. E. G.
 ADDAMS-WILLIAMS, Mr. C.
 ADDY, Babu AMULYA DHONE.
 AHMED, Maulvi TAYEBUDDIN.
 AHSANULLAH, Mollah.
 ALEY, Khan Bahadur S.
 MAHBOOB.
 ALI, Maulvi SAYYED SULTAN.
 BIRLEY, Mr. L.
 BROWNE, Mr. P. H.
 CAMPBELL, Mr. K.
 CHARTRES, Mr. C. B.
 CHAUDHURI, Nawab Baha-
 dur SAIYID NAWAB ALI,
 Khan Bahadur.
 COHEN, Mr. D. J.
 DAS, Babu CHARU CHANDRA.
 DE, Mr. K. C.
 DEY, Mr. G. G.
 DONALD, the Hon'ble Mr. J.
 EDDIS, Mr. B. E. G.
 FORRESTER, Mr. J. CAMP-
 BELL.
 GHUZNAVI, Haji Mr. A. K.
 ABU AHMED KHAN.
 GOODE, Mr. S. W.
 HAQ, Khan Bahadur KAZI
 ZAHIRUL.
 HEARD, Major-General
 RICHARD.

HOPKINS, Mr. W. S.
 HOSSAIN, Khan Bahadur
 Maulvi MUSHARRUF.
 HUQ, Maulvi EKRAMUL.
 JAMES, Mr. F. E.
 JENNAWAY, Mr. J. H.
 LAL MAHAMMED, Haji.
 LAW, Raja RESHEE CASE.
 LIDDELL, Mr. H. C.
 LINDSAY, Mr. J. H.
 MASIH, Mr. SYED M.
 OATEN, Mr. E. F.
 PAHLOWAN, Maulvi MD.
 ABDUL JUBBAR.
 PARROTT, Mr. P.
 RAHIM, the Hon'ble Sir
 ABD-UR-
 RAHMAN, Mr. A. F.
 RAY, the Hon'ble Maha-
 raja Bahadur KSHAUNISH
 CHANDRA.
 ROY, Mr. S. N.
 SALAM, Khan Bahadur
 Maulvi ABDUS.
 SARKAR, Maulvi ALLAH
 BUKSH.
 SNAITH, Mr. J. F.
 STEPHENSON, the Hon'ble
 Sir HUGH.
 TRAVERS, Mr. W. L.
 WOODHEAD, Mr. J. A.

Noes.

AHAMAD, Maulvi ASIMUDDIN.
 AHMED, Maulvi NAJMUDDIN.
 AHMED, Maulvi ZANNOOR.
 BAGCHI, Babu ROMES
 CHANDRA.
 BANERJEA, Dr. PRAMATHA-
 NATH.
 BANERJEE, Babu SATYA
 KISHORE.
 BARMA, Rai SAHIB PANCH-
 NAN.
 BASU, Babu JATINDRA
 NATH.

BASU, Babu SARAT CHANDRA.
 BOSE, Babu BEJOY KRISHNA.
 CHAKRAVARTI, 'Babu JOGIN-
 DRA CHANDRA.
 CHAKRAVARTI, Mr. BYOMKES.
 CHAKRAVORTY, Babu
 SUDARSAN.
 CHATTERJEE, Babu UMES
 CHANDRA.
 CHAUDHURI, Maulvi SAIYED
 ABDUR ROB.
 CHAUDHURI, RAI HARENDRA-
 NATH.

CHAUDHURY, Maulvi MD.
 NURUL HUQ.
 CHUNDER, Mr. NIRMAL
 CHANDRA.
 DAS, Dr. MOHINI MOHAN.
 DAS GUPTA, Dr. J. M.
 DATTA, Babu AKHIL
 CHANDRA.
 DEY, Babu BORODA PROSAD.
 DOSS, Rai Bahadur PYARI
 LAL.
 GAFUR, Maulvi ABDUL.
 GANGULI, Babu KHAGEN-
 DRA NATH.
 GOENKA, Rai Bahadur
 BADRIDAS.
 GUHA, Mr. P. N.
 HALDAR, Mr. S. N.
 HAQ, SHAH SYED EMDADUL.
 HUQ, Mr. MAHBUBUL.
 JOARDAR, Maulvi AFTAB
 HOSSAIN.
 KHAN, Babu DEBENDRA LAL.
 KHAN, Maulvi AMANAT.
 KHAN, Maulvi MAHI UDDIN.
 MAHAMMAD, Maulvi BASAR.
 MAITY, Babu MAHENDRA
 NATH.
 MITRA, Babu JOGENDRA
 NATH.
 MITTER, Sir PROVASH
 CHUNDER.
 MORENO, Dr. H. W. B.

MUKHERJEA, Babu TARAK-
 NATH.
 NASKER, Babu HEM
 CHANDRA.
 NEOGI, Babu MANMOHON.
 QUADER, Maulvi ABDUL.
 RAIKAT, Mr. PRASANNA DEB.
 RAY, Babu ABANISH
 CHANDRA.
 RAY, Babu NAGENDRA
 NARAYAN.
 RAY, Babu SURENDRA NATH.
 RAY, Chaudhuri, RAJA
 MANMATHA NATH.
 ROY, Babu MANMATHA NATH.
 ROY, Babu SATCOWRIPATI.
 ROY, Dr. BIDHAN CHANDRA.
 ROY, Mr. D. N.
 ROY, Mr. KIRAN SANKAR.
 ROY, Mr. TARIT BHUSAN.
 ROY, RAJA MANILOLL SINGH.
 ROY CHOUDHURI, Rai Baha-
 dur SATYENDRA NATH.
 SARKAR, Babu HEMANTA
 KUMAR.
 SARKER, Babu NALINIRANJAN.
 SASMAL, Mr. B. N.
 SEN, Mr. N. C.
 SEN GUPTA, Mr. J. M.
 SINGHA, Mr. ARUN CHANDRA.
 TARAFDAR, Maulvi RAJIB
 UDDIN.
 YASIN, Maulvi MUHAMMAD.

The Ayes being 46 and the Noes 64, the motion was lost.

LETTER FROM THE GOVERNMENT OF ASSAM, No. POL.-69—237-A. P.,
 DATED THE 13TH-15TH JANUARY 1926.

SUBJECT:—*Proposed transfer of the district of Sylhet from Assam to Bengal.*

I am directed to refer to the correspondence ending with your telegram No. 81-Public, dated the 8th January 1926, on the above subject, and to submit the report called for in your letter No. F.-81—25-Public, dated the 24th of October 1925. A special session of the Assam Legislative Council was held on the 6th and 7th of January 1926, to reconsider the question of the transfer of Sylhet, and I am now to submit 300 copies of the proceedings for the use of the Government of India.

2. The following two Resolutions which were moved by Rai Bahadur Sadananda Dowera, an Assam Valley member, were adopted by the Council, the first by a majority of 26 votes to 12 and the second unanimously:—

(a) This Council recommends to the Governor in Council that the District of Sylhet be transferred to Bengal.

(b) While it is not the intention of the Council to prejudice the transfer of Sylhet by any consideration as to the status of the rest of the province, Assam should not by reason of the transfer be deprived of any of the political privileges which it at present enjoys in common with other Governors' provinces or which may hereafter be extended to other Governors' provinces.

The majority in favour of the first Resolution, on which the official members did not vote, consisted of all the Sylhet members with the exception of two, all the Assam Valley Indian members with the exception of three Muhammadans, and four of the five European members of the Assam Valley. The minority consisted of two Muhammadan members from Sylhet, three Muhammadan members from Assam Valley, including the Honourable Minister for Education, one Muhammadan and two Hindu members from Cachar, the member for the Shillong (general urban) constituency and three European members. The two Sylhet members opposed the Resolution on the ground that Sylhet would materially suffer from the transfer to Bengal. The three Cachar members held the view that Sylhet should not be allowed to go unless Cachar was transferred with it. The remaining members who voted with the minority were actuated mainly by the fear that the status of Assam as a Governor's province would not be maintained if Sylhet were transferred. The Muhammadan members of the minority were further influenced by the fact that their community would be greatly weakened by the transfer of Sylhet with its large Muhammadan population.

3. Within the last few months opposition to the transfer has been growing among the Muhammadans of Sylhet, and certain members of that community asked for an interview with His Excellency the Viceroy to represent their case to him. It is possible that if the final consideration of the question had been further postponed, the opposition would have grown in strength. Some Hindus of Sylhet are not quite so confident of the wisdom of the transfer as they were, but they are too far committed now to withdraw. There can be no doubt, however, that the vote of the Council represents the views now held by the large majority of those who have any views at all on the subject, both in the district of Sylhet and in the province generally. The members from the Assam Valley who voted with the majority are influenced by two motives. The desire to let Sylhet realise what they consider to be a natural aspiration and at the same time they are anxious to be rid of Sylhet in order that the inter-valley rivalry,

which they feel to be a bar to the progress of the province, may cease.

4. As regards the Jaintia Parganas, the Government of Assam have ascertained that the people of that area almost without exception desire to remain with Sylhet whether Sylhet goes to Bengal or remains in Assam. In this connection I am to forward a memorial addressed to His Excellency the Viceroy and the Governor-General. The suggestion that the Jaintia Parganas might be separated from Sylhet did not emanate from this Government and the Governor in Council agrees with the Legislative Council that the Jaintia Parganas should not be separated from Sylhet. Apart from other considerations it would be impossible to have a clearly defined geographical boundary between the two provinces if these parganas remained in Assam after the transfer of the rest of Sylhet to Bengal. On the other hand, communications between Cachar and Shillong would not be affected by the transfer to Bengal of the Jaintia Parganas together with Sylhet, as the means of communication ordinarily used is the Assam Bengal Railway.

5. On the question as a whole, the Governor in Council adheres to the views expressed in my letter No. 1573-Pol.-3860-A. P., dated the 11th August 1925. Both the Assam and the Bengal Legislative Councils have now twice pronounced in favour of the transfer of Sylhet to Bengal, and the Governor in Council would not feel justified in offering any opposition to the fulfilment of their wishes, were it not for the uncertainty which exists regarding the political future of Assam. It will be observed that in the course of the debate the opponents of the transfer not unnaturally made the most of the arguments which might be used against the retention by Assam without Sylhet of the status of a Governor's province, while the supporters of the transfer professed their belief that, in spite of the Government of India's decision to leave the question open for the present, it is inconceivable that the transfer should involve any such consequences. The resolution declaring that Assam should not by reason of the transfer suffer in the matter of its political status was however carried unanimously. There can be no doubt that it represents a very strong feeling throughout the province and that any proposal to lower its status would lead, as Mr. Kuladhar Chaliha, one of the leading Assam Swarajists, significantly remarked, to an intense agitation more bitter than that of 1921. The Governor in Council feels that he would be failing in his duty if he did not urge upon the Government of India the importance of this aspect of the case. He earnestly trusts that if the Government of India decide to sanction the transfer of Sylhet to Bengal, they will find it possible to accompany their decision by an announcement regarding the political status of the rest of the province which will serve to allay the doubts which at present exist and to prevent a disturbance of the friendly relations which, after the bitter experiences of 1921-22, have now happily been re-established between Government and most sections of the community.

RAI BAHADUR SADANANDA DOWERAH:—Sir, the resolution which I wish to move in this Council is this:—

This Council recommends to the Governor in Council that (a) the district of Sylhet be transferred to Bengal, (b) Assam should not by reason of the transfer be deprived of any of the political privileges which it at present enjoys in common with other Governors' provinces or which may hereafter be extended to other Governors' provinces.

Sir, the question of the transfer of Sylhet was introduced in this Council by my Hon'ble friend Babu Brajendra Narayan Chaudhuri. The resolution moved by him was fully discussed in this Council and ultimately it was put to the vote and carried. After that resolution was accepted the Government of Assam sent recommendations to the Government of India, to the effect that Government of Assam would not object to the district of Sylhet being transferred to Bengal provided that the status of Assam as a Governor's province was not affected by that transfer. After that we have all seen the letter from the Government of India in which they insist that the opinion of this Council should be recorded apart from the question of the status. Of course it is hardly necessary for me to say that the resolutions of this Council are only recommendations and they have no binding effect either on the Government of Assam or the Government of India. Therefore this resolution has been framed in such a way that instead of using the words provided we have advocated that the district of Sylhet be transferred to Bengal and that our status as a Governor's province should not be done away with. This is not a conditional resolution but it is a resolution which recommends two things and consists of two parts, one part is not dependent on the other, so that those members who are of opinion that the district of Sylhet may be transferred to Bengal have nothing to object. If any member in this Council advocates the first part and opposes the second part the only interpretation I can put on such action is that he does not want Assam to continue as a Governor's province—that would be a resolution to which I would not be a party. The question is whether Sylhet should be transferred to Bengal or not. I have already said that this question was fully debated, and it was accepted by the majority of the elected members from the district of Sylhet. They all, with one exception, voted for this resolution, and if this is an indication of public opinion in Sylhet we can take it for granted that they do want to go to Bengal. Now the question is whether we in the Assam Valley would be justified in opposing them in going back to their own people? I for one venture to think that we shall not be justified unless there are very strong reasons to the contrary. If the district of Sylhet be transferred to Bengal the people of Assam would not be losers. On the other hand the people will be the gainers. If the hon'ble members would only read the proceedings of the first Council they will find that almost the whole proceedings are sickening record of rivalry of the claims of the two Valleys. If there is a question whether a certain

institution be established in the province the question becomes where it is to be located—at Sylhet or at Gauhati—and so on, and so we have had to drop these all questions of this nature. If Sylhet continues with us, what is the result? We shall have to carry on the same policy of drift—that unless we can have two institutions of the same kind in the two Valleys we cannot have one. With Sylhet in Assam there will be no policy, and unless there is a fixed policy there cannot be any progress. Let us take it that we have solved this question and that the resolution is lost. Does it mean that the question has been decided once for all? It will come up again and again, and perhaps for the next ten years the only politics of Assam will be whether Sylhet is to go to Bengal or not. The people of Sylhet will not be satisfied until they are restored to Bengal. This is a drifting policy which leads to nowhere. The question should not be considered in the interest of a particular community but in the interests of the province as a whole. We must know where we stand, so that we can cut our coat according to our cloth. This was the opinion of all the members who came from Sylhet except the member from Maulvi Bazar, my hon'ble friend Dewan Muhammad Wasil Chaudhury and a planting member. Barring these three members all the members voted in favour of Sylhet going to Bengal. Then there was the opinion of Cachar. I think they all voted in favour of the resolution.....

KILAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—It was because Cachar was added.

RAI BAHADUR SADANANDA DOWERAH:—I am obliged to my hon'ble friend for correcting me. The matter is like this that if you do not give me to eat you must also starve. It is a very good thing to say I agree to your going if I am also allowed to go, unless you take me you cannot go. What is the opinion of the Assam Valley members? In their opinion they will not object to Sylhet going to Bengal because they think that it is not only giving effect to the wishes of the Sylhet members but it is to the interests of the province as a whole. It cannot be satisfactory to all sections of the people; I know to some it will not be quite welcome, but we must remember that we are deciding not for a particular community or a section of the people but for the whole province as a whole.

As regards the question of status, questions has been raised that if Sylhet is transferred to Bengal Assam will not continue as a Governor's province. I know there are some people who are inclined to be unduly pessimistic, but I am an optimist—rather too much of it. Assam is growing in population and will soon recover its population. And if the people of Assam will unanimously ask the Government of India to continue Assam as a Governor's province, I have little fear that the Government of India will disregard lightly to consider the unanimous opinion of the people backed by the Governor in Council.

As to the facts and figures, I understand that my hon'ble friend Maulavi Saadulla will go through them and will try to convince us that Assam cannot continue to be a Governor's province after the separation of Sylhet—but that I shall leave to be answered by my hon'ble friend Babu Brajendra Narayan Chaudhuri. I do hope—I am sanguine—that if Sylhet is transferred Assam will be better. With these words, I beg to move the resolution that stands in my name.

THE HON'BLE MR. A. W. BOTHAM:—I would suggest, Sir, if you think it will be convenient, that we should have all the resolutions and amendments moved; that then we should have a single discussion on the lot, and finally you should put the various resolutions and amendments to the vote in whatever order you think proper.

BABU BRAJENDRA NARAYAN CHAUDHURI:—Sir, I would like to strongly and vehemently protest against the suggestion made by the Hon'ble Mr. Botham. We meet here to-day to discuss only one subject, the question of the transfer of Sylhet to Bengal. We have already on the agenda as many as four resolutions still to be taken up, one having been withdrawn, and we have also, Sir, a list of amendments numbering, I believe, about half a dozen. Already a confusion is imminent and if all these differing resolutions are taken up all at once I am not sure how many cool and hard-headed brains are here in this House which will be able to steer clear of all these confusions. Sir, instances of confusions about the exact meaning and scope of a resolution and amendment we have had experience of in this Council and in the light of that experience I should think that if you allow all these to be taken together the case will be almost hopeless.

MAULAVI RASHID ALI LASKAR:—I rise to a point of order, Sir. Supposing the resolution that has been moved is passed can the other resolutions come in at all? So, I think all the resolutions should be discussed together and voted upon.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—I am also of that opinion, Sir. All the resolutions and amendments for instance show that some want Sylhet should be transferred and some want that Sylhet should not be transferred and some want that some proviso should be added. If all the resolutions and amendments are discussed together, and one by one each resolution is put to vote, the result would be one and the same. Discussing them one by one and discussing them all together would have the same effect.

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA:—Sir, if I might intervene at this moment, I would suggest that there is only one question before the Council, so far as I can see and that is, the question whether Sylhet should be transferred or not. Although there are five resolutions and four amendments, to me it is clear that there is only one positive proposition, that emanating from my friend, the Hon'ble Rai Bahadur

Promode Chandra Dutta. We know also that he does not represent the Government in the matter of this resolution which he is moving. So, as I said there is one positive proposition that Sylhet should be transferred unconditionally. Against that we have now the proposition of my hoary friend, Dewan Muhammad Wasil Chaudhury Sahib, that Sylhet should not be transferred. There is also a conditional one which we can take either from the resolution to be moved by my friend, Mr. Taraprasad Chaliha, or the resolution just now before the House. These three things may be discussed together and voted upon; or first, the positive proposition, then the negative one and then the amendments proposed. This is the simplest way to cut short the matter.

BABU KRISHNA SUNDAR DAM:—I rise to say one word in connection with this. Sir, I think the President will do well to choose only those resolutions which will help to supply direct information on the issues framed by the Government of India in their letter. I find from the list that there are certain resolutions tabled which have no connection with what the Government of India really requires. The position as stated by the Hon'ble Minister, Maulavi Saadulla, that the only question before the House is whether Sylhet should or should not be transferred, I think that does not really come within the issues raised by the Government of India. In fact they have taken it for granted that the people of Sylhet have already expressed their desire to go to Bengal as has been explained by Rai Bahadur Sadananda Dowerah and they have only asked for specific information upon certain other issues framed, namely, whether the Jaintia Parganas should go or not.....

THE HON'BLE MR. A. W. BOTHAM:—I rise to a point of order, Sir. The only issues before the House are those which are raised in the resolutions of which notice has been given; and the hon'ble member is at present travelling outside the scope of those issues.

BABU KRISHNA SUNDAR DAM:—My point is that we shall be failing in our immediate duty if we debate all the resolutions taken together. So, I should like to have Mr. Dowerah's resolution put to vote separately because in my humble opinion it touches directly upon the issues framed by the Government of India, whereas the other resolutions like those of Khan Bahadur Alauddin Ahmed Chaudhuri and Maulavi Wasil Chaudhury have absolutely no connection with what the Government of India requires from us. In this view of the matter I shall support Babu Brajendra Narayan Chaudhuri in his opposition to the suggestion made by the Hon'ble Finance Member.

THE HON'BLE THE PRESIDENT:—With regard to the points raised by the Hon'ble Mr. Botham, certainly the only business before the House is this question of the transfer, and he made a

suggestion that we should proceed with the business and discuss all the resolutions hinging on that matter.

Other hon'ble members also have said that we have come to discuss only one matter, whether Sylhet should be transferred and whether that should be a conditional or an unconditional transfer, whatever that condition may be. In fact in my opinion the main issues that are before the House will come in in the course of the discussion of any one of these resolutions and it will be merely a question of putting the other resolutions before the House if they do not by the carrying or defeat of any resolution fall through. So, the question of placing all these motions before the House together does neither help the hon'ble members very much, nor put the hon'ble members to very much difficulty. Taking this view of the matter I shall prefer to proceed with the resolutions in the order in which they are.

THE HON'BLE MR. A. W. BOTHAM:—Perhaps, Sir, in the circumstances you will not object if in discussing one of these resolutions I travel slightly beyond the scope of that resolution and touch on what would be more appropriate with reference to one of the other resolutions (The Hon'ble the President:—Certainly not). It will be a little difficult to keep to the various resolutions separately.

I do not propose, Sir, to re-state the views of this Government as to the advantages and disadvantages of the transfer of Sylhet. They have been stated in this Council, they have been explained in the correspondence with the Government of India which have been circulated to hon'ble members. Nor do I propose to discuss the financial aspect of the question. We as a Government are convinced that we shall not be prejudiced financially by the loss of Sylhet. And apparently the Bengal Council are willing to take Sylhet for better for worse, for richer for poorer. (*Hear, hear.*) Consequently, Sir, I think it is not necessary for us to discuss the financial aspect any further. What I do want to do is to explain how the question seems to this Government to be affected by the observations of the Government of India and what line the official members will take in respect of the various resolutions before the Council having regard to the present position of the question. The Council will remember that the Government of Assam reported to the Government of India that if Assam without Sylhet would be allowed to preserve its political status and privileges they would not feel justified in opposing the transfer to Bengal. In reply the Government of India said that they cannot accept the view that this could be imposed as a condition of transfer and that the future status of Assam is a separate question which must be left an open matter to be decided on its merits after the transfer was made. Well, Sir, this ruling of the Government of India obviously makes it very incumbent on this Council to refrain from coming to any decision without weighing well its effects not only on the district of Sylhet but also on the rest of the province. Because, Sir, especially since the Bengal Council

has expressed itself in favour of the transfer irrespective of the financial implications, if this Council finally decides to recommend the transfer, it does seem at any rate very likely that that recommendation will be accepted. What the effect of that transfer is likely to be on the status of the remainder of Assam, hon'ble members must judge for themselves. The Government of India have said that they cannot commit themselves in advance and obviously this Government is not in a position to express any opinion on the subject.

For this reason, Sir, Government prefer the resolution which has just been moved by Rai Bahadur Sadananda Dowerah to any of the other resolutions which are before the House because it does have regard to the interests of the rest of the province.

As regards Mr. Taraprasad Chaliha's resolution, that of course does exactly represent the opinion which this Government expressed in its letter to the Government of India. But since the Government of India has held that it cannot accept a recommendation conditional on the preservation of the status of Assam as a Governor's province, this Government fear that the only result of a conditional resolution may be that the Government of India will find themselves unable to take any action on it (*hear, hear*). We as a Government and, I think in this most, if not all, members of this Council will agree with us, do want to have this matter settled one way or the other. And we are therefore unwilling to support a resolution which is not likely to lead to a definite settlement. Mr. Dowerah's resolution on the other hand, as we understand it and as he has explained it, does not make the transfer conditional. It recommends definitely and unconditionally that the transfer should be made, but with that recommendation it does at the same time combine the further recommendation, that the status of the province should not be impaired, which must receive careful consideration and, we may hope, must carry very considerable weight if the question ever arises of reducing the status of the province.

For these reasons, Sir, the official members will support Mr. Dowerah's resolution.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—Before I speak on this resolution may I make a suggestion to the hon'ble mover of the resolution? In the course of the speech he has made it very clear that his resolution is not a conditional one.

RAI BAHADUR SADANANDA DOWERAH :—No.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—If I understand him aright it means that the question of the transfer of Sylhet is to be decided on its own merits and that on the question of the status there is a separate recommendation, an independent recommendation from this Council that it should not be altered. If this is so, in order to remove obscurity

may I suggest to him an amendment—that is, that after the word “(b)” the following words be added:—

“while it is not the intention of this Council to prejudice the transfer of Sylhet by any consideration as to the status of the rest of the province.”

What I want to do entirely and completely expresses the view that Mr. Dowerah himself has expressed here—that he is not going to make the status a condition of the transfer. These words will make the meaning of the resolution clear. Otherwise in spite of all that has been said the issue will remain obscure. What I do want is that the element of obscurity should be removed and if the hon’ble member is sincere in his statement I hope, Sir, he will accept it. May I know, Sir, if the hon’ble member accepts my amendment or not?

RAI BAHADUR SADANANDA DOWERAH:—I am unable to accept it.

THE HON’BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Now Sir, the cat is out of the bag. I am afraid, Sir, I do not know how to vote on this resolution. So far as the first part of the resolution is concerned we are all in complete agreement with the hon’ble member. We do wish that Sylhet should be transferred and I thank him for including this as a part of his resolution. But, as I said, there is an element of obscurity in the resolution as framed. I should like particularly to know what is the intention in coupling (a) and (b) together. The hon’ble member has been pleased to say that he does not make it a condition. Well, Sir, that is not down in the resolution itself. The resolution says that the status of the province should remain unaltered. It means and it will be open to the Government of India to construe that unless the status is maintained this Council does not recommend the transfer. It is for that reason that I suggested to the hon’ble member to accept my amendment.

Now in regard to (b), it says that Assam should not be deprived of the political privileges which it now enjoys and further that all the privileges or any privileges that might be extended to the other provinces later on should also be assured to it. Now, then, Sir, the resolution is this, first “Sylhet be transferred” and secondly, an assurance be given to the hon’ble members of this Council that the reforms or the privileges now enjoyed by this province shall be continued and that any reforms that may be granted to other provinces in future may be extended to this province as well. Now, Sir, if (b) is a condition to (a), then (a) is nowhere. The Government of India will say, as the Hon’ble Mr. Botham has said, it is not a recommendation at all in view of their letter to the Government of Assam.

Now, Sir, as to the assurance which hon’ble member wants may I ask him if it is within the power of the Governor in Council to whom he addresses his recommendation to give him that assurance? I submit, Sir, that neither the Government of Assam nor the Government of India can give an assurance of the

extension of the reforms. As the hon'ble member knows as well as anybody in this Council there would be forthcoming a Statutory Commission in the year 1929, if not earlier, to advise Parliament whether there should be an extension of the reforms or a curtailment of the same, so that neither the Governor in Council to whom the recommendation is addressed nor the Government of India nor even the Parliament can give this assurance. What is then the object of including this within the resolution for the transfer of Sylhet? As I said the resolution is not clear. It is not quite unconditional. The Hon'ble Mr. Botham said it is not a conditional one and he accepts it in that sense. Since the hon'ble mover is not willing to accept the amendment it only means that he has at the back of his mind that the one thing is to be given only if the other thing is given.....

RAI BAHADUR SADANANDA DOWERAH:—My resolution is sufficiently clear and it is not a conditional one.

THE HON'BLE THE PRESIDENT:—I do not think any point of order arises. The Hon'ble Minister can interpret it in the way he likes.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Well, Sir, I wanted to make it clear that the resolution is not a conditional one.....

(A voice:—It is unnecessary.)

It may be unnecessary from the point of view of Mr. Barua, but it is necessary from my point of view. I do want to go to Bengal. I leave it to the Council to decide whether this resolution is not really a conditional one. As I have already said the Hon'ble Leader of the House accepts the resolution. He will support this resolution and also ask the official members to support it on the understanding that the resolution is not a conditional one. I want to make that point quite clear. May I refer to paragraph 4 of the Government of India's letter to the Government of Assam which has been circulated? In that paragraph they say:—

“In paragraph 11 of their letter of the 11th August 1925 the Government of Assam raise the question of the future status of Assam if Sylhet is transferred, and suggest that it should be laid down now that if Sylhet is transferred Assam should retain its status as a Governor's Province. The Government of Assam apparently conclude that it is only if Assam without Sylhet is to retain its present political status that they would not oppose the transfer of the district. The Government of India regret that they are unable to accept the view that this may be imposed as a condition of transfer. They consider that the future status of Assam is a separate question which must be left an open matter to be decided on the merits after any transfer is made.”

If anything is clear it is clear that the Government of India would have no condition or no conditional recommendation whatsoever. If the hon'ble mover is prepared to split his resolution into

two parts (a) and (b) I mean two independent resolutions I myself would see no difficulty in supporting them. But as it stands I am afraid I cannot support it, because there is an element of obscurity which he is not prepared to remove by accepting the amendment suggested by me.

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—Sir, I find that the political and personal considerations of the resolution make the matter a bit complex. But I am always a believer in plain speaking and straight talk and I propose to discuss it in all its bearings without any reservation. The question of the transfer of Sylhet or rather to put in my own way the union with Bengal has been dealt with in that memorable speech of Sir Nicholas Beatson Bell, but I find that the speech has been ruthlessly criticised in a small pamphlet known as 'Back to Bengal'. It is really regrettable to me that motives have been ascribed upon that Ruler in connection with his speech.....

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Surely that is not the subject before the House at present.

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—I am just preparing the ground and explaining the situation.....

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Yes, but do not stray from the subject under discussion.

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—In fact the speech made in the spirit of confidence and trust and general well-being of the country was received with prejudice and suspicion. It stimulated some of the best friends of the province of Assam to a keen desire to build and create, while it inflamed others with the passion to destroy. The writer of the preface of that pamphlet said that "there can be no affinity ethnological, social, religious or linguistic" between the people of Sylhet and Assam. I like to deal with these expressions in order in which they stand. The Ramayan tells us that King Amuratharaja of the Lunar dynasty leaving Pundra land founded an Arjya kingdom near Dharamranya in Pragjatihpur (Kamrup). Again, the Mahabharata tells us that King Bhogadatta of the same Pragjatihpur took part in the battle of Kurukshetra and Kamrup has also been described equally sacred and holy as Banares-Kashidham, in Jugini Tantra. It is also a fact that Sylhet and Jaintia formed a part of the Kamrup.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—It is not a battle of Kurukshetra yet here.

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—Formed part of the Kamrup Raj.....

BABU KRISHNA SUNDAR DAM:—May I know, Sir, if the Government of India require information of this nature? (Laughter.)

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA:—I rise to a point of order, Sir. Is it fair that the hon'ble member should be incessantly interrupted in this way?

THE HON'BLE THE PRESIDENT:—Members should give the speaker every opportunity to express his views. He is giving facts in order to bear out his arguments and I am waiting to see whether they are relevant or not. So far the speaker is quite in order.

BABU BRAJENDRA NARAYAN CHAUDHURI:—Sir, do we understand that we are not required to keep within the four corners of the issues raised in Mr. Tonkinson's letter to the Government of Assam? We can also in this connection discuss other matters which have not been touched in the Government of India letter. Am I to understand that this is so?

THE HON'BLE THE PRESIDENT:—We are discussing the subject-matter before the House, but at the same time I am prepared to give every member an opportunity to prepare his ground by saying anything to achieve that end. I do not know what the member is going to say ultimately. I shall wait to hear how he makes it relevant.

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—It is also a fact that Sylhet and Jaintia formed a part of Kamrup Raj when Huensiang, the Chinese traveller, visited India. May I know how Assam could be said to be quite different from Sylhet on ethnological grounds?

Hajrah Shaha Jalal conquered Sylhet from the Hindu Raja Gaur Govinda in the 14th century A. D. and it formed a part of the Moghul Empire in the 16th century. Thus it is clear from traditions and history that Sylhet all along from time immemorial was politically connected with Assam before the 16th century till 1874. It throve under the suzerainty of Kamrup Raj and I.....

BABU BRAJENDRA NARAYAN CHAUDHURI:—What is your authority for that?

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—I have already stated the authorities. And only in the 16th century it formed a part of the Moghul Empire. From 1874 up to this time for a period of about 50 years Sylhet might have been slow in her social intercourse with Assam because of the difficulties of communication which stood as strong barriers between the two Valleys and before the railway lines were opened. But even then, matrimonial connections were not altogether denied. For instance, the late R. C. Dutta, perhaps the first Bengali Divisional Commissioner, had given one of his daughters in marriage.....

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA:—Need we go into personalities, Sir?

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—Would you allow me to deal with personalities? Then I may say that R. C. Dutta, the first Bengali Divisional Commissioner, gave one of his daughters in marriage to Srijut Balinarayan Bora of Assam. Two Muhammadan gentlemen, namely, late Maulavi Tamijuddin Ahmad *alias* Najmul Hussain of the Assam Provin-

cial Service and Khan Saheb Maulavi Sarafat Ali Chaudhury, retired District Superintendent of Police, had also married in Assam. As to the religious aspect of the matter we all know that the reverential position of Brahmin Gohains among the Assam Hindus is not a whit inferior to the position held by the high caste Brahmins in Sylhet. Again Srijut Benudhar Rajkhowa of the Assam Civil Service has proved the affinity between the dialect of Sylhet and that of Assam. In face of these facts, I am surprised how the writer of the pamphlet and that of the preface could denounce so loudly the social, religious and linguistic affinities that exist between Sylhet and Assam. The facts of this case ought to make the writers hang their heads down in very shame. So it behoves this Council to examine the matter very carefully and dispassionately.

In that pamphlet an attempt was made to prove that the cry for the transfer of Sylhet to Bengal was a general one, but it was not so, and so it behoves this Council to examine the matter very carefully and cautiously. Now, I should offer an apology to the hon'ble mover of the resolution and say that my object is not to lower the position of Assam in any way but to remain in touch with our Assamese brethren for all times to come.

Now as to the idea that the desire for the transfer of Sylhet is a general one, I submit for the information of the House that it was never the case, and that the Muhammadan community in Sylhet even in 1874 when Sylhet was united with Assam, was against it. The then leading Zamindar Maulavi Hamid Bakht Mazumdar Saheb did not associate himself with the movement. After 1874 there seems to have been a lull for a considerably long period during which scarcely anybody heard anything about the transfer question. Then in 1912 a feeble voice was heard in that direction, and it was responded by the late Khan Bahadur Saiyid Abdul Majid, C.I.E., in a strong protest against the proposed amalgamation. Nine years later in 1918 when the said echo was repeated, a telegram on behalf of the Muslim community was cabled to Mr. Montagu under the signature of the late Khan Bahadur Maulavi Muhammad Ahia, one of the leading zamindars and holder of the Kaisar-i-Hind gold medal, in opposition to that voice. (*Hear! hear!*) Then how can we say that the desire is a general one?

If we compare the present with the past from 1874, we find that Sylhet joined with her ancient comrade Assam only having 1 high school, about 6 or 7 middle schools and 100 primary schools for the education of her children. But now she possesses about 17 high schools, 70 middle and 1,300 primary schools, besides one Arts College, 1 first grade Madrassa, and one Sanskrit College all maintained by Government, and with the privilege of free vernacular education throughout the province. The Primary Education Bill for a measure of compulsion is now engaging consideration. The bench and bar of Sylhet at the time of separation from Bengal were almost full with the people from East and

West Bengal. The subordinate services also shared the same fate. But what do we find now? Sylhet not only elbowed out her Bengali friends from bench and bar and other subordinate situations but managed to send her gifted children to take part in the administration of the province here and elsewhere. Sylhet separated from Bengal only with 2 or 3 graduates of the Calcutta University. But now she has produced a battalion of graduates some of whom have taken to trade and other jobs besides the Government service. Sylhet had only about 70 miles of roads when she parted from Bengal, but at present she has 1,290·02 miles of roads under the Local Boards alone. Are all these signs of deterioration or progress as the result of her coming in contact with the alleged backward and foreign people? Is it not a fact that Sylhet has run the race of progress along with other parts of Bengal? Is it not a fact that she has raised her status by the union with Assam—she is now the premier district here? It is true that some educated people seek reunion with Bengal on political grounds, for better environments, good atmosphere and association according to their estimation. But I say, is it not insulting to our self-respect, self-determination and self-help to go to a people who look askance at us? Is it not more generous and manly on our part to join hands with our ancient comrades in Assam, which is full of resources, and to try to make it a model province in India?

I believe sincerely that privately no Indian will deny that this country has been greatly benefited by British connection, and as a nation the Britishers are not so black as they are occasionally painted. I trust if autonomy is granted to Bengal, it would be allowed to Assam also. If federacy is introduced into India, Assam would not be denied a membership there.

Now, Sir, let me speak a few words about the hardships and difficulties which would disturb the present peace and prosperity of Sylhet if she joins with Bengal. Firstly, the privilege of free vernacular education will be lost, as the system is not in vogue in Bengal, and the Sylhet people will have to pay about Rs. 1,25,000 as tax in the shape of school-fees for vernacular education. Secondly, the district will have to be cadastrally surveyed entailing a cost upon her of Rs. 3,00,000 or so, in the near future. Thirdly, the chaukidari tax will have to be paid at an enhanced rate. Fourthly, the countryboats which ply a very important part in communication and transportation of goods in the Habiganj and Sunamganj subdivisions—nay almost all over the district—will be taxed, and such tax may exceed a lakh of rupees touching mostly the pockets of our poor Namasuds, Patnis and Mahimals. Lastly, the introduction of the Bengal Tenancy Act would prove ruinous both to landholders and raiyats of Sylhet. As every Sylhet member knows that the zamindari system in Sylhet is not on a par with Bengal. I may draw the attention of the House to the fact that Sylhet contains 1,41,449 permanently and temporarily-settled estates divided in 174 parganas and owned by 2,400,000 people approximately, or in other words, each estate is held on an

average roughly by a unit of 36 souls. This explains the difference of the position of landholders in Sylhet and in Bengal. Again, Sir, I may submit for the information of the House that the settlement in Sylhet was in most cases made with the peasant owners and not with the zamindars, and as such the present relation of the zamindars and raiyats in Sylhet is one of cordiality and sympathy. If the Bengal Tenancy Act is introduced it will prove a terrible scourge to all people concerned.

Under these circumstances I request the House again, to consider the question seriously and dispassionately and to decide whether Sylhet is to go to Bengal leaving her Bengali-speaking brethren of Cachar and Jaintia, and Goalpara behind, and in the teeth of economic and other disadvantages pointed out by me; or to forget all our petty jealousies and discussions between community and community and combine in one brotherly spirit and proceed onward towards the goal of making the province of Assam a model one as she possesses sufficient resources for the purpose.

With these humble submissions I oppose this resolution.

BABU KSHIROD CHANDRA DEB:—Sir, may I ask a question? The hon'ble member said that the Muslim opinion was unanimously against the transfer, but we find from Mr. Gimson, the Deputy Commissioner of Sylhet's letter that the Anjuman-i-Islamia of Habiganj was in favour of the union. Is that information correct?

MAULAVI DEWAN MUHAMMAD WASIL CHAUDHURY:—This cannot be accepted as an authority. I said general, not unanimous. The Habiganj Anjuman may have been in favour for reasons best known to that body which scarcely represents the masses of Habiganj.

THE HON'BLE THE PRESIDENT:—The hon'ble member did not refer to the opinion of the Anjuman. He was referring to the general opinion of the Muhammadans.

BABU KSHIROD CHANDRA DEB:—Did he say that the Muhammadan opinion was not unanimous?

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Sir, I think on reconsideration the Hon'ble Mr. Dowerah will accept my amendment.

RAI BAHADUR SADANANDA DOWERAH:—Sir, my resolution was and intended to be an unconditional one. But if the hon'ble members want to emphasise it by accepting the amendment I would accept it.

REV. J. J. M. NICHOLS-ROY:—We want to know the amendment. We object to the amendment being accepted at this stage.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—The amendment which the mover has accepted is:—

“This Council recommends to the Governor in Council that—
(a) the district of Sylhet be transferred to Bengal, (b)

while it is not the intention of the Council to prejudice the transfer of Sylhet by any consideration as to the status of the rest of the province, Assam should not by reason of the transfer be deprived of any political privileges which it at present enjoys in common with other Governors' provinces or which might be hereafter extended to other Governors' provinces."

KHAN BAHADUR ALLAUDIN AHMED CHAUDHURI:—I object to the amendment at this stage. It alters the whole resolution.

BABU BASANTA KUMAR DAS:—Are we to understand that Mr. Dowerah has accepted the amendment?

THE HON'BLE THE PRESIDENT:—I am just waiting to know what the opinion of the House is. Mr. Dowerah cannot accept the amendment unless he is permitted to do so by me.

REV. J. C. EVANS:—Sir, we on this side of the House have not been able to follow exactly what the amendment is. We are quite in the dark about it.

THE HON'BLE THE PRESIDENT:—The amended resolution will read like this:—

"This Council recommends to the Governor in Council that (a) the district of Sylhet be transferred to Bengal, (b) while it is not the intention of the Council to prejudice the transfer of Sylhet by any consideration as to the status of the rest of the province, Assam should not by reason of the transfer be deprived of any political privileges which it at present enjoys in common with other Governors' provinces or which might be hereafter extended to other Governors' provinces."

REV. J. J. M. NICHOLS-ROY:—We have objected already, Sir.

BABU KRISHNA SUNDAR DAM:—Are we permitted to speak, Sir, on this amendment?

THE HON'BLE THE PRESIDENT:—The amendment is not before the House yet.

Hon'ble members will realise that this resolution has been admitted rather late and some members were under a misapprehension whether this resolution is coming before the Council at all. The Hon'ble Minister for Local Self-Government was one of those who were under the misapprehension that it was not coming before the House. But for this difficulty which the hon'ble mover points out to me, I would not have perhaps allowed this amendment to be put before the House. In the circumstances I think I should allow the amendment though it comes rather late.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—May I know one thing, Sir? As it stands, the resolution of Mr. Dowerah, as amended now, is the same as the Hon'ble Rai Bahadur Promode Chandra

Dutta's resolution. I proposed an amendment to Resolution No. 5. Am I understand, Sir, that I shall have to move the proposed amendment to the resolution of Srijut Sadananda Dowerah in its amended form?

THE HON'BLE THE PRESIDENT:—That is the look-out of the hon'ble member. Certainly the resolution has taken a different form and the hon'ble member can move any further amendment he desires now.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—Am I to understand that Resolution No. 5 would not be discussed at all? May I know this from the Hon'ble Rai Bahadur Promode Chandra Dutta?

THE HON'BLE THE PRESIDENT:—It is too early to enquire of the hon'ble member. It would depend on the voting on the other resolutions.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—Then, if Resolution No. 2 is carried what will be the fate of my amendment, Sir?

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—That amendment goes.

THE HON'BLE THE PRESIDENT:—But, if the hon'ble member desires to make any amendment to the motion before the House, he is quite welcome to do it.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—But as the amended resolution stands now, my amendment cannot be put in.

THE HON'BLE THE PRESIDENT:—The hon'ble member may, if he desires, make any amendment in regard to the new resolution before the House. He is quite welcome to do it. I think the hon'ble member evidently wishes to know what would be the fate of the fifth resolution if this resolution is carried. That the hon'ble member can presume.

MAULAVI RASHID ALI LASKAR:—Any member can make an amendment at this stage, I believe. If so, how can they do so unless they get a copy of the amended resolution?

THE HON'BLE THE PRESIDENT:—If the hon'ble member desires he can make an amendment because the original resolution has been modified. The hon'ble members did not know whether the resolution in its present form would be coming before the House; otherwise they might have proposed amendments earlier. On that consideration I shall permit the hon'ble members to make amendment to the present resolution.

BABU BASANTA KUMAR DAS:—May I suggest a short amendment, Sir? Now, in the Government of India's letter it was distinctly stated.....

THE HON'BLE THE PRESIDENT:—I must definitely know whether the hon'ble member is only suggesting a short amendment or moving it.

BABU BASANTA KUMAR DAS:—I am only suggesting, Sir. It was distinctly stated in the Government of India's letter that the question of the Jaintia Parganas should be separately considered, and perhaps in order to make that point more explicit the Hon'ble Rai Bahadur Promode Chandra Dutta worded his resolution like this: 'Sylhet including the Jaintia Parganas'. So, may I suggest to the hon'ble mover of the resolution that he should add after 'Sylhet' the words 'including Jaintia Parganas'? Although the Jaintia Parganas are included in the district of Sylhet it would be better to add these words in order to meet the Government of India's point. It would show that the question about the Jaintia Parganas was separately brought before the House for consideration.

RAI BAHADUR SADANANDA DOWERALL:—If it is necessary, then it will also be necessary to add 'the district of Sylhet including all the villages therein'.

BABU BASANTA KUMAR DAS:—My object was only to meet the Government of India's letter. In their letter the point was clearly stated.

THE HON'BLE THE PRESIDENT:—I think the hon'ble mover means 'including the Jaintia Parganas'.

RAI BAHADUR SADANANDA DOWERALL:—I mean that.

THE HON'BLE THE PRESIDENT:—Unless there is any special phrase to indicate the contrary, the district of Sylhet would include the Jaintia Parganas.

MAULAVI ABUAL MAZID ZIAOSSHAM:—My amendment will run like this:—

'While it is not the intention of the Council to prejudice the transfer of Sylhet by any consideration of the status of the rest of the province' be totally omitted.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—That is not an amendment.

THE HON'BLE THE PRESIDENT:—This is not an amendment. When the amendment was first moved the hon'ble member should have opposed it. That was the only course, but he did not adopt it. What he has just moved cannot be regarded as an amendment.

MAULAVI ABUAL MAZID ZIAOSSHAM:—But, there is one difficulty. The amendment was accepted by you, Sir. I wanted to vote on the original resolution which Srijut Sadananda Dowerah moved. I do not like to support the present resolution in the amended form. At the same time I want to put my amendment, but if in the meantime the Hon'ble Rai Bahadur Promode Chandra Dutta withdraws his resolution then my amendment will have no opportunity of being discussed at all.

THE HON'BLE MR. A. W. BOTHAM:—If I may be permitted to point out, Sir, the effect of the resolution which the hon'ble member wishes to move will be attained by resolution No. 3 in

the name of Mr. Taraprasad Chaliha. I think Mr. Chaliha's resolution practically amounts to the Hon'ble Rai Bahadur's resolution with the amendment of Mr. Ziaosshams.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—Then, may I know on a point of information whether Mr. Chaliha will press his motion.....

THE HON'BLE THE PRESIDENT:—The hon'ble member (Maulavi Abual Mazid Ziaosshams) should address the Chair.

MR. TARAPRASAD CHALIHA:—The hon'ble member should have given notice of a resolution, instead of an amendment.

THE HON'BLE THE PRESIDENT:—I may inform the hon'ble member (Maulavi Abual Mazid Ziaosshams) that his purpose may be served by Mr. Taraprasad Chaliha's resolution.

THE HON'BLE MR. A. W. BOTHAM:—Then, Sir, I am afraid all that the hon'ble member can do is to vote against the present resolution.

THE HON'BLE THE PRESIDENT:—Before I come to any decision regarding the point I must point out one fact to the hon'ble mover of the resolution that has just struck me. I gave much consideration before we admitted the resolution of the hon'ble member as one resolution. I can inform him that it came almost to the border line, and the amendment has absolutely separated the resolution into two resolutions.

THE HON'BLE MR. A. W. BOTHAM:—May I point out, Sir, that the Hon'ble Minister's point in suggesting this amendment was that it added nothing to the meaning of the resolution, that it only emphasizes a point in it which was existent in it before. If now the two portions of the resolution are put separately the whole object of the resolution may be lost. Certainly, Sir, Government are unable to support the first part of the resolution if it is put in two parts.

THE HON'BLE THE PRESIDENT:—In admitting a resolution we have not only to look to the scope of the resolution, we have got also to look to its form. As the form of the resolution at present stands, I am afraid I cannot allow both the parts to be treated as one resolution and to place it before the House as one resolution. I am, therefore, mentioning the matter to the hon'ble mover of the resolution.

RAI BAHADUR SADANANDA DOWERIH:—It is within your power, Sir, to put a resolution in any way you like. With all respect to the Chair I beg to submit that by accepting the amendment I have not changed the resolution. It only emphasizes the fact that it is not a conditional resolution. So I appeal to you, Sir, to put the whole resolution as a whole to the vote of the House.

THE HON'BLE THE PRESIDENT:—As I pointed out to the hon'ble members both the parts of the resolution almost came to the border line, and this amendment has made the two parts so separate that, I am afraid, I cannot put them as one resolution.

BABU BASANTA KUMAR DAS:—May I submit, Sir, that this amendment will not make the resolution a different one? I agree with the Hon'ble Mr. Botham that it is one and the same resolution and the interpretation that you are putting, Sir, is really taking away the hon'ble mover's meaning in the resolution.

MAULAVI ABUAL MAZID ZIAOSSHAM:—May I just say a few words, Sir? It is your intention to give scope to any hon'ble member to put in any amendment provided it is relevant. Now, Sir, if the resolution of Mr. Dowerah as it stands by the amendment of the Hon'ble Mr. Dutta is passed I cannot move my amendment to the resolution standing in his name. So unless as you point out the resolution as amended and accepted by you is split up into two parts I cannot put my amendment at all. So it will be only fair to split the resolution, as you say, Sir, into two parts.

THE HON'BLE THE PRESIDENT:—I am looking to the form of the resolution.

RAI BAHADUR SADANANDA DOWERAH:—I accepted the amendment only because it made clear that the resolution is not a conditional and if it is your ruling now that the resolution is to be put into two parts I would rather not accept the amendment and stick to the original resolution and ask you to put the whole resolution as a whole to vote.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—But, Sir, you have allowed the amendment to go in.

BABU BASANTA KUMAR DAS:—May I again ask you, Sir, to reconsider the decision?

SRIJIT KULADHAR CHALIIHA:—May I point out to you, Sir, that it is not obligatory on your part to accept it in two parts? The object of Mr. Dowerah as well as that of the Hon'ble Mr. Dutta is the same. As such I do not think there can be any difficulty on your part, Sir, to put both parts of the resolution together. We feel that there is absolutely no difference and the Government Member has just explained—and we are entirely in agreement with his views that it only emphasizes or makes it clear a doubtful point in the mind of our over-scrupulous Hon'ble Mr. Dutta, though we ourselves had not the least doubt about it and in order to comply with the request of that over-scrupulous mind we have just agreed to his amendment. I do not think, Sir, it will be doing any harm if both the parts are put together. It will rather complicate matters if you put them separately.

THE HON'BLE THE PRESIDENT:—I am not at all concerned as to how this will affect the hon'ble members. I am just looking to the form of the resolution, whether we are creating a precedent which will compel us to allow any incongruous matters to be put into one resolution. Personally, I am very little concerned whether the two parts are put to the House together or separately. I am only concerned in trying to avoid a bad precedent.

SRIJUT NILMONI PHUKAN:—I think this amendment was moved only to clear up an obscure issue. At any rate we want to vote on both the parts together.

THE HON'BLE THE PRESIDENT:—There is no question of obscuring issues. It is only with the form of the resolution that I am concerned.

BABU KSHIROD CHANDRA DEB:—Unless the first part of the resolution 'that Sylhet be transferred to Bengal' is not carried, the second part is meaningless; two parts are inter-dependent.

THE HON'BLE THE PRESIDENT:—I quite understand the position of the hon'ble members. I am just looking to the form. As I pointed out to the hon'ble members, when we admitted both the parts as one resolution we had to give our utmost consideration. We did not treat both the parts as separate resolutions, but we thought both the parts had come to the border line; but the present amendment separates them all the more.

(Voices :—Entirely.)

SRIJUT KAMAKHYARAM BARUAH:—With all respect I beg to submit, it Sir, that it is quite permissible to move a resolution involving two or more distinct propositions. Standing Order 36 says:—

“When any motion involving several points has been discussed, it shall be in the discretion of the President to divide the motion and put each or any point separately to the vote as he may think fit.”

So when a resolution moved and to be passed by the Council involves several points—as is the resolution before us—it is quite discretionary on your part as President to put it in two parts or in whole and there will be no departure in practice, I think, Sir, if you put it in whole.....

THE HON'BLE THE PRESIDENT:—The President in exercising his discretion has got to follow certain principles. I should exercise my discretion in this particular case by putting the two things as separate. They cannot be regarded as one motion.

I quite realise the difficulty of the hon'ble mover. I understand his difficulty, but of course I will consent to his going back to the original resolution if the hon'ble members agree.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Can that be done, Sir? You have already allowed the amendment and he has accepted it.

THE HON'BLE THE PRESIDENT:—Yes, I permitted the hon'ble mover to accept your amendment.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—He has accepted the amendment as a matter of fact.

SRIJUT KULADHAR CHALIHA:—You are creating a dangerous precedent, Sir. If after accepting an amendment an

hon'ble member is permitted to do so, it will be creating a dangerous tradition.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—I submit, Sir, it will amount to an amendment of an amendment already accepted.

THE HON'BLE THE PRESIDENT:—It is not an amendment of an amendment. As I have said if the hon'ble members of the House agree, that can be done. If they do not agree we shall have to stick to the position and both the things must come separately. I shall put both parts separately.

RAI BAHADUR SADANANDA DOWERAH:—So I will ask you, Sir, to put my original resolution to the vote at the same time without splitting it into parts.

BABU BRAJENDRA NARAYAN CHAUDHURI:—I oppose the withdrawal of the amendment of the resolution by Srijut Dowerah which he has already accepted.

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—I think he is perfectly in order in withdrawing it.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—We want the President's ruling.

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA:—Sir, the entire proceedings has been a series of withdrawals. We started with an withdrawal, when you, Sir, allowed Mr. Dowerah to propose his resolution, after having withdrawn it by a formal letter to you and proposed an amendment. After that, at a very late stage the amendment of Rai Bahadur Promode Chandra Dutta was allowed as a special grace to be accepted by the mover of that resolution. I do not think, Sir, that that grace which you have twice extended should now be taken away for the third time.

REV. J. J. M. NICHOLS-ROY:—Sir, you have already given a ruling that the resolution should be taken into two parts if the amended resolution is not allowed.

SRIJUT NILMONI PHUKAN:—We opposed the resolution on the understanding that both should be taken together.

THE HON'BLE THE PRESIDENT:—As I have already ruled, I shall place both the parts separately. But in order to avoid confusion I might tell the hon'ble members that the purpose of the original resolution might be served by bringing an amendment to Resolution No. 3 that stands in the name of Mr. Taraprasad Chaliha which will not fall through if both parts of this resolution be defeated. I understand the difficulty of the hon'ble mover of this resolution but that difficulty can be met by attending to the resolution of Mr. Taraprasad Chaliha.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—But, Sir, may I know what will be the effect of the acceptance of these two parts of the resolution upon the resolution of Mr. Chaliha? Supposing both parts are accepted by the House, what would be the effect on his resolution? Will it stand or fall?

THE HON'BLE THE PRESIDENT:—If this resolution is accepted then the acceptance of the first part of the resolution will cause the resolution of Mr. Chaliha to fall through.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—If both the parts are put separately then, I think, I can put my amendment.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—No, that cannot be.

MAULAVI ABUAL MAZID ZIAOSSHAMS:—I want a ruling from the Chair.

THE HON'BLE THE PRESIDENT:—I should like to know whether any other gentleman wishes to speak on these two motions.

THE HON'BLE MAULAVI SAYID MUHAMMAD SAADULLA:—I should like to speak now, Sir.

In my opinion, this is the most momentous debate that we are having within this Council Chamber. The vote that will be cast on this motion will either make or mar Assam. I realise the feeling, prompted by the newly acquired emphasis on the word 'self-determination', which has animated my friends from the other Valley to press their cause for an unconditional transfer to Bengal. I quite realise the very pious wish that is being conveyed in the resolution before the House that we should not oppose this principle of self-determination which is the ultimate way to reach self-government by every one of us. A further pathetic recommendation conveyed in this resolution is that by the transfer of Sylhet, we, *i.e.*, the rest of Assam, should not step backward in the political march of the Indian Empire. But I want to sound a note of warning. How far will this pious wish of the retention of the status of the Governor's province carry us? A friend of mine in another Council had said that 'if human memory is short official memory is shorter still' and I find that almost all my friends have fallen at least to that degree of oblivion that they have forgotten the official story. We need not go very far back, for the benefit of the Reforms were granted to us only the other day. We all know that the late Mr. Montagu, that very great champion of Indian liberty, toured throughout the country to elicit public opinions. The deputations from Assam—two from the Assam Valley and one from the Surma Valley—pressed their claims to such an extent that in their joint Report, the Authors gave a place to Assam as a major province fit to receive constitutional Reforms. But when the Report was submitted to the Government of India what did they do? I think every one of our politicians especially our friends in the Council have studied the celebrated Ninth Despatch on the Indian Constitutional Reforms, the proposal as regards Assam that was conveyed by the Government of India on 5th June 1919 to the Secretary of State the Right Hon'ble Edwin Montagu. I think it would surprise many of the hon'ble members present to know that the Government of India was extremely unwilling to accord to Assam a place in the Reformed constitution. I would like to place a few passages from that memorable document for

the consideration of my friends from the Assam Valley as well as from the Surma Valley, so that they must cast their vote in such a way that the aims of both parties may be safeguarded. The whole of the 9th Despatch is on 'Assam and backward tracts', that is to say, Assam has been relegated to the category of a backward tract. I find it stated in paragraph 2 thus:

"The province has an area of 77,500 square miles or slightly less than that of the neighbouring province of Bengal, but 50,000 square miles or almost two-thirds of this area is composed of hill tracts, peopled by simple hill tribes who are governed in a patriarchal fashion. The more advanced portions of the province is confined to the Assam and Surma Valleys. The whole province has a population of about 3 million, but the area of Assam Valley is 20,000 and that of the Surma Valley 7,000 square miles. The total population of the province is only 7 million or about half that of the Central Provinces which in point of population is the next small of the nine principle provinces. The gross revenue of the province is approximately only 171 lakhs as compared with 404 lakhs in Bihar and Orissa which has the next lowest revenue."

Then in paragraph 4, I find this statement which is also signed by Lord Chelmsford who was one of the joint authors of the Montford Report. This shall have to be borne in mind when we realise the full significance of the recommendations of the Government of India:

"The decision for treating Assam in a special manner must be sought not so much in its area which as we have mentioned is almost equal to that of Bengal as in the very large proportion of this area which lies in the Hills and in peopled by primitive tribes and the consequent smallness of the area which is correspondingly with a small population and revenue which can be compared in the matter of general progress and advancement with the rural tracts of other provinces."

Then in paragraph 5 they say: "Our view is that the hill tribes clearly call for special treatment and that the remainder of the province—I lay very great emphasis on this portion of the Despatch—" and that the remainder of the province is too small to carry the elaborate constitutional superstructure which we have proposed in the case of the other provinces."

Then I find, Sir, that they mention that one of the proposals that was made before the late Mr. Montagu and Lord Chelmsford was that there was an eventuality of merging Assam into Bengal. I would read that portion again:

"The last constructive proposal which we shall mention is of a different type from any of the preceding. You are aware that certain of the inhabitants of Assam have expressed the desire for a reunion with Bengal. Some of our advisers would go further than this. They suggest that all the plain districts of the province should be transferred to Bengal and the remainder of the province should continue to be administered on the present lines."

Well, Sir, I find that they were precluded from taking this course, *i.e.*, taking all the plains districts of Assam into Bengal for this very simple reason which they say at the end of paragraph 13:—"We have therefore no evidence that there is any general desire for a transfer to Bengal, and we agree with the authors of the Report"—(Lord Chelmsford is a party to the Report as well as to the Despatch)—paragraph 246—"and with the Chief Commissioner that redistribution of provincial areas should not be imposed by official action and should follow rather than precede or accompany reform. For these reasons we do not propose to seek a solution of the problem in any territorial readjustments." Hon'ble members will at once find from this statement that because the Chief Commissioner was opposed at the time, because a general desire for a reunion with Bengal was not made by the people then, and because it was thought that territorial redistribution should not accompany reforms, that the possibility of the Assam districts being taken over to Bengal was not considered. Now if you accept the resolution which has been moved by Rai Bahadur Sadananda Dowerah, that as there is a general desire on the part of the Sylhet people they should go to Bengal, one of the factors you already concede. Secondly, we find from the speech of the Government spokesman to-day, the Hon'ble Mr. Botham, that they dare not face the Government of India with the same proposal which they made in August last; they dare not propose that the transfer should be a conditional one, *i.e.*, they dare not recommend that Sylhet should be transferred to Bengal on the condition that the rest of Assam do continue as a Governor's province. Therefore as a matter of despair they agreed to support the very tamely worded resolution of Rai Bahadur Sadananda Dowerah. I request hon'ble members from the Assam Valley to consider very seriously whether in view of these statements of the spokesman of the Government of Assam, and the Government of India letter of October last they can expect any hope that the Government of India is solicitous for the continuance of a Governor's province for the remainder of Assam.

Now, with reference to the proposal which was made at that time—(with due deference to Lord Chelmsford, who happens to be a common party to the Report as well as to the 9th Despatch) they recommended this:—"It is time now to put forward our own proposals. At the head of the province we would retain the Chief Commissioner with his present title and the emoluments proposed in paragraph 36 of our Despatch of March 5. The retention of the title of Chief Commissioner would mark the difference between Assam and the other provinces in the matters of size, wealth, development and general importance, and for this reason it appears to us to be far more suitable than the more imposing designation of Governor, which would also involve additional expenditure, if the accepted status of that office is to be maintained". Further on I find that just to solace the opinion of Lord Chelmsford, who recommended the introduction of reforms

to Assam, they wanted to give us one Executive Councillor and one Minister. Sir, if that was the mentality of the Government of India, then, so far as Assam was concerned towards the proposal that Assam should be made a Governor's province, I doubt what will be the fate of the rest of Assam with Sylhet taken away now, when we have given them the handle to take away the status with our own vote. Assam came under the Reforms through the large heartedness of late Mr. Montagu and the strenuous labours of the Assam Valley deputation that appeared before the Parliamentary Committee and the British Public.

The wording of paragraph 4 of the Government of India's letter (Mr. Tonkinson's letter dated 24th October 1925) is only a reflection of the mentality which is shown in the 9th Despatch. Sir, in July last, the resolution here was passed without any mention of status; it was a resolution for an unconditional transfer of Sylhet and Cachar to Bengal; neither in the speeches anybody raised the question of status at all. It was only in their letter to the Government of India that the Government of Assam—(which is constituted by His Excellency the Governor and the two Executive Councillors) that they raised this question of status—they said that you better take away Sylhet to Bengal but keep to us the status of a Governor's province. What is the reply we get? The Council did not put any condition but simply because the question of status was raised by the Government of Assam, the Government of India say:—

“In paragraph 11 of their letter of the 11th August 1925 the Government of Assam raise the question of the future status of Assam if Sylhet is transferred, and suggest that it should be laid down now that if Sylhet is transferred Assam should retain its status as a Governor's province. The Government of Assam apparently conclude that it is only if Assam without Sylhet is to retain its present political status that they would not oppose the transfer of the district. The Government of India regret that they are unable to accept the view that this may be imposed as a condition of transfer.” As the Hon'ble Rai Bahadur Promode Chandra Dutta has already said if anything could be clear, this is clear. The view which the Government of India have in their mind is plain. Further on they say:—“They consider that the future status of Assam is a separate question which must be left an open matter to be decided on the merits after any transfer is made.” On the merits and not by any recommendation. The resolution which has been moved is not even a conditional one—at its best it is an attempt to make it a condition of the transfer. But by the acceptance of the amendment, even that vestige of condition has been removed. Heaven alone knows what is meant by this amended resolution. The letter goes on to say:—“The Government of India observe however that any change in the status of Assam would probably involve an amendment of the Government of India Act, and therefore for some time at any rate Assam would remain a Governor's province”.

SRIJUT KULADHAR CHALIHA :—Sir, the hon'ble member has exceeded his time.

THE HON'BLE THE PRESIDENT :—I made some consideration to the other speakers. I think the House would like to hear some of the facts which he is placing before the House. Even those who oppose the resolution might like to hear the arguments, and therefore I wish to let him proceed.

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA :—I am obliged to you, Sir.

I would again request my friends from both Valleys that they should not be blind to the implication that is conveyed in the last sentence of paragraph 4, wherein the Government of India say that "they are unable to state now whether they would be able to support the continuance of Assam as a Governor's province after its population has been reduced by some 33 per centum." Again I say could anything be more distinct, more clear and pregnant of dire consequences than this last sentence of that letter?

I will now give the census figures to show where we stand without Sylhet. I have already pointed out that the Government of India consider that the population is too small, even half of the lowest of the other provinces, *i.e.*, Central Provinces. From the Census figure of 1921 I find that the total population of the province, including Sylhet, is 76 lakhs.

BABU BRAJENDRA NARAYAN CHAUDHURY :—I think the population is 79 lakhs.

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA :—It is 76 lakhs. 79 lakhs includes Manipur.

SRIJUT NILMONI PHUKAN :—What is the population of the Assam Valley?

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA :—The population of the Assam Valley is 3,991,682.

Now the population of Sylhet is 2,541,341, therefore the balance, *i.e.*, the population of the Assam Valley, Hill districts and Cachar is 5,064,889. After deducting the population of the Hill Districts 751,828 we get only 4,313,061. This includes tea-garden population which are neither Assamese nor within the Government of India Act nor have they been enfranchised. They number 922,245. Deducting them we get 3,390,816. I have excluded the tea-garden population for another reason as well. They are a floating population and there is annual immigration and repatriation. Sir, the hon'ble mover of the resolution said that the population is daily growing and therefore he expects that in no time, we will make up the deficit. I will satisfy him that it is not so. From the figures from 1891 census to 1921, he will find that in spite of the very accelerated increase of our population on account of immigration of Mymensingh settlers, the rate of progress for this large tract of 20,000 square miles, is only 50,000 annually. In the 1891 census the Brahmaputra Valley

contained 2,449,782 souls; now it has 3,991,682, so in 30 years the population has increased by about 15 lakhs, which gives you an average of 50,000 annually. Sir, if we take 43 lakhs as the present population of the rest of Assam, and not 33 lakhs as I have calculated excluding the tea-garden population, to make up a population of 7 millions we will require at least another 50 years. I would request the hon'ble members again to seriously consider whether our rate of acceleration in the population is sufficient to enable us to have a very rosy view that the Government of India is going to accede to our request. In spite of the taunts which my friends will hurl at me—(there are indications which lead me to take a very pessimistic and not an optimistic view) I am constrained to oppose the resolution because I think that self-preservation is a virtue which is to be more preferred than the new-fangled principle of self-determination.

Sir, I have so far spoken on the general view of the question. If I remember aright—I am speaking without the proceedings—His Excellency the Governor in proroguing that session of the Council which passed the last resolution about the transfer of Sylhet and Cachar to Bengal, distinctly said that we would be pointing the way to other people. If we allow Sylhet to go, on what basis or principle could we stop Cachar and Goalpara also from going? Most probably every hon'ble member has received a very heavy booklet from the Raja of Gauripur who seems to have left no year pass by without pressing the claim of Goalpara to be transferred to Bengal. Sir, I would request the hon'ble members from the Assam Valley again to consider, whether if Cachar and Goalpara agitate to be taken away from them on the same principle of self-determination which my friends from the other Valley are urging and they are supporting, with what face can they say that they would not allow Cachar and Goalpara too, to go? And if these two districts are taken away what will be their position? The population of Goalpara now is 762,523 and the population of Cachar, 527,282. These two districts together make up a total of 1,300,000. If we take away these thirteen lakhs from the thirty-three lakhs which I have arrived at after deducting the tea-garden population, what remains is only the paltry twenty lakhs of people in Assam. Sir, I would request the hon'ble members to take a long view of the matter and explore not only the rosy side but also the thorny side of the question, whether this is not possibly the thin end of the wedge—I think Mr. Roffey used that phrase in the first debate on this question—and eventually we will not be compelled to part with Cachar and Goalpara; and then what will remain of the rest?

Sir, I would not be true to the vote of my constituents if I did not address my Muhammadan friends on the Moslem point of view. Sir, I find that the position of the Muhammadans in this province is that of a respectable minority. We form about one-third of the population now. Although we are a minority we can attain to be a telling minority, for, if we combine with any other single party in the Council we can turn the balance in any

direction we like. The census figures show that in the Sylhet district there are 1,099,745 Hindus against 1,433,390 Muhammadans. On the other hand in the Assam Valley there are 2,648,932 Hindus against 594,951 Muhammadans, that is, we form nearly one-fourth compared with the Hindus. Unfortunately through a mistake in nomenclature used at the time of the Reforms, our franchise has been divided into Mussalmans and non-Mussalmans. Therefore my friends of the other community get the advantage of the Animistic numerical strength, in other words, the benefits from the numerical strength of the Animistic population which is counted amongst the non-Moslems. Sir, of these 594,951 Muhammadans in the Assam Valley, it will surprise I suppose my friends in that Valley, to hear that 316,490 comes from the district of Goalpara alone. If in the future we allow Goalpara to go away—and I say we cannot stem the tide once we allow it to run—there will be only 250,000 Muhammadans against 2,600,000 of our Hindu brethren, that is we will at once be relegated to the position of being one-tenth in the numerical strength of the population. I would request all my Muhammadan friends very seriously to consider, whether of this Valley or the other Valley, how they should give their vote on this resolution. It might be urged by my Muhammadan friends of the other Valley that they are going to a province which has got a Muhammadan majority. I have calculated that as well. The present percentage of Muhammadans in Bengal is 52·5 and by the addition of these fourteen lakhs of Muhammadans of the Sylhet district the position is changed from that of 52·5 to 53 per cent. only. If by their going to Bengal, they could raise the scale of the Muhammadans there, to an appreciable extent we could say, 'very well, you better go, although we might suffer, and have a kindly look towards us, so that we can combine with our Hindu brethren and ask them to give us something more than our numerical strength would entitle us to, in view of the fact that in Bengal the Muhammadans agreed to have, in spite of their 52·5 per cent. strength, only 40 per cent. representation in the services as well as in the self-governing institutions'..... (The Hon'ble the President:—As the time is up I think the Hon'ble Member had better finish his speech soon). One minute, Sir, if I find that this is not going to be, that is, the going over to Bengal of our Muhammadan friends of Sylhet is not going to turn the scale there even, I would request them again sincerely to consider whether it will be the brotherly feeling which is inculcated in our Holy Book, to leave us in such a helpless position in this Valley and not to care a jot for us.

I would not go into the historical details as the Dewan Sahib has already pointed out that till recently, although not within a hundred years, but within two or three hundred years Sylhet formed part of Assam.

KHAN BAHADUR ABUL FAZL AHMAD:—Sir, I rise to put in a few words in connection with the important question which

is now before the Council. I have given considerable thought to this question, and have taken pains to study the arguments that have been adduced for or against the proposed transfer of the district of Sylhet to Bengal. I confess I remain unconvinced as to the propriety of this transfer. The measure is neither necessary nor desirable. So far no reasoned case has been made out as to the necessity of the measure. The district of Sylhet has been justly and generously treated and nothing unfavourable has happened within my knowledge that warrants a resort to the measure which is the subject of discussion to-day. The measure does not seem to be desirable, for, in my view it will not be in the interests of any of the parties concerned.

I quite sympathise, Sir, with the desire of an important section of the people of Sylhet to cast in their lot with the people of Bengal on grounds of racial and linguistic affinity, but I hope to be pardoned, Sir, when I say that there appears to be more of the warmth of sentiment than the coldness of reasoning behind the whole movement. I doubt very much if Sylhet when incorporated with the Chittagong Division of Bengal will receive the same measure of attention in the larger province as it has been receiving in Assam. The representatives of the Sylhet district in the Legislature of Bengal will certainly be a very small fraction of its total strength, and imagination need not be stretched for realising how difficult of fulfilment would be the local needs of Sylhet amid the numerous conflicting claims each asserting its precedence over the rest.

Nor do I think that the Assam Valley people will be really benefited by the transfer. Whether Sylhet is or is not a deficit district I leave to financial experts. If it is not, well, the contention that the province in the event of the transfer of Sylhet would save much of the good money that otherwise goes to square the accounts of the district of Sylhet loses its force. If it is a deficit district the financial gain which is likely to accrue in the event of Sylhet leaving us would be neutralised, in a large measure, by the possible—or should I say, probable—reduction of the status of the province and the consequent loss of its political importance.

When the question was last discussed on the floor of this House, many of my colleagues, I fancy, expressed their agreement with the proposal of transfer of Sylhet on the understanding, implied or expressed, that the transfer would not disturb the status of Assam as a Governor's province. To-day we are not in a thick mist, we see better. We have not before us any assurance from any quarter as to the continuance of our present status under the Reforms Act. On the contrary the letter of the Government of India rightly construed discourages the entertainment of any hope as to the continuance of the present status when the province would be reduced both in area and population by reason of the transfer. It behoves us, therefore, to approach the question in no light mood to avoid any false step and to court no risks.

Looked at from the communal point of view, Sir, the transfer would not come as a blessing to the Muhammadans. Our provincial percentage of population is 28 and the percentage of the Muhammadans of the Assam Valley to the total population of the Valley is 14. It is therefore easy to see how the proportion of the Muhammadan community will, with the transfer of Sylhet, be considerably lowered. Despite the platitudes of the opponents of communal representation the fact must be faced and recognised that minority is always at a disadvantage. Our share in the public services and in the administrative and legislative machinery of the province will doubtless be considerably reduced, while our Muslim brethren of the Sylhet district will have nothing to gain on the score of numbers.

Our brethren of Sylhet finds us unwelcome companions. They want to go to Bengal. Bengal has also opened her arms to receive them. So far as I have been able to gauge the feelings of the members of our Council it seems clear that most of them will not stand in their way. So far so good. Then let them all go root and branch to Bengal along with the district, vacating their offices under the Government in Assam in favour of the children of the soil (*A voice :—Hear, hear*) following the policy 'Assam for the Assamese and Bengal for the Bengalis'. Why should they be allowed to remain with us from when they want to separate? If all the elements of Sylhet already in Government service in Assam cannot be taken over to Bengal all at once, one year's time at the utmost may be allowed (*Hear, hear, and laughter*). I want an assurance on this point from Government. If the Government are unable to give us such an assurance I oppose the proposal on this ground as well.

Sir, lastly I fail to appreciate the desire evinced in certain quarters of influencing the imagination of the people by high sounding phrases like self-determination. The high principle of self-determination is not a synonym for separation any more than patriotism is for parochialism; an endeavour to apply the principle to the present case is to carry it to its logical extremity. In these circumstances, Sir, I am unable to give my assent to the proposed transfer of Sylhet to Bengal.

SRIJUT NILMONI PHUKAN :—Sir, I did not mean to speak, but I find that after so much debate I cannot conscientiously give a silent vote. When I came to this Council for the first time in 1921 I heard a distant voice of 'Back to Bengal' from my Sylhet friends. It was a sort of cry in the wilderness then, but today we find it has echoed and re-echoed in this Council Chamber. So, whether at this stage we can wisely say that we shall either obstruct their going to Bengal or we shall be able to keep them with us for all time to come is a point to be seriously considered. The question has become almost their own. It has no concern with us in the Assam Valley except in so far as it will affect or likely to affect us by this transfer.

I have heard with great attention the arguments that have been advanced by the Hon'ble Mr. Saadulla against this proposal of my Sylhet friends. He has quoted paragraphs after paragraphs from the Despatches of the Government of India and the Joint Committee's recommendations. But from the very arguments which he has put forth to-day it appears to me that what was dreaded in 1919 may not be dreaded to-day (*A voice:—certainly*). We find in that year the Ruler of the province had the greatest doubt as to whether the reforms would work in this province even with Sylhet. He opposed it and to-day just a few hours back we have heard from the lips of no less a personage than His Excellency the Viceroy who was pleased to say that the reforms have worked well in this province. So the same arguments cannot hold good for all time to come. If other countries with a population not larger than that of this province can think of a dominion status, can think of a separate Parliament, can think of self-determination, I for myself for the moment do not entertain the doubt whether with or without the Surma Valley, the people of the Assam Valley will be able to stand on their own legs, if they are allowed to grow, if they are allowed to develop. This small province of Assam, the Assam proper, in ancient times ruled a kingdom of their own with their own king, held the major portion of Eastern Bengal in fee. Why then should it not be possible for the Assam Valley to develop themselves if they are allowed to do so? But thereby I do not mean that the Surma Valley should go to Bengal. It is not my proposal, it is neither the proposal of the Assam Valley people. But how can we help it if they are determined to go back to Bengal? Whether on sentimental grounds or on any other grounds it is not our concern to say that they should not go. If we at the present moment ought to stand on some other ground as a nation rather than on social or linguistic then I for myself cannot see why the question of race, creed, community should stand in the way of national growth. If as the Hon'ble Mr. Saadulla has already said that this question apart from the question of the status of the province after Sylhet goes to Bengal will have to be determined on communal basis, then there will be another difficulty. He has put the figure that in this valley the proportion of Muhammadan element is very small. That is quite true. There are 26 lakhs of Hindus whereas there are only 5 lakhs of Muhammadans. But that does not stand in the way of national solidarity. What do we find in this Council to-day? I am glad to say that in spite of this minority we find two Muhammadans of our valley (*hear, hear*) adorning the Government Bench and we are proud of them, whereas in spite of the larger Muhammadan element in the other valley we find only one Muhammadan gentleman occupying the presidential chair. These figures after all will not be allowed to decide this larger question. The only question is if my Sylhet friends really like to live with us here, they are quite welcome. But after all they are quite unwilling to stay here, then what is the use of holding them back (*hear, hear*)? It must be dealt with in this way. Suspense is:

worse than death. We do not like to live in this suspense. Whenever any larger question comes, these questions do crop up whether we should vote for 10 lakhs of capital expenditure for the Murarichand College, Sylhet, when Sylhet is going to Bengal. Again my Sylhet friends think what will be the use of raising the status of the Cotton College to a University. Certainly, Sir, we cannot go in this way. We must be frank here.

It is no use having patch-work. If that is their feeling we must respect it. That is what I feel.

Then as regards the population, my Hon'ble friend has already pointed out that when that despatch was sent in 1919 the population of this valley was 30 lakhs. To-day what is the number? (The Hon'ble Maulavi Saiyid Muhammad Saadulla—39.) Then it is 33 per cent. increment within these years. If 33 per cent. of Sylhet go away, we again get 33 per cent. within these years and considering the vastness of this province and considering the onrush of immigrants from other parts of the country and considering the coolie population who, I am happy to say, have for the most part settled here, I am not afraid at all on the score of population. I do not believe in number. Everything will depend on the standard of the people. But even taking the number into account I do not think that it will be a very insignificant province. There are countries which are quite independent ruling their destinies independently of any such question of population. So on that account I am not at all anxious.

As regards other points which have been raised by my Hon'ble friend regarding Goalpara and Cachar, these questions can never come up in this debate. It has distinctly been said by the Government of India that the question of the transfer of Cachar should be closed. As regards the question of Goalpara we do not care a bit about the voluminous document of the Raja of Gauripur in this connection. The Raja of Gauripur or any Zemindars are not the nation. It is the mass people who must hold the destiny of the nation. It is a few interested Zemindars who might have expressed their opinion; that does not matter whether we should hear or there. Bengal cannot claim Goalpara to be theirs. Goalpara never formed part of Bengal. If for political reasons it has been a part of Bengal for some time, it is no reason why Goalpara should go to Bengal. If that argument is to hold good to-day we can claim Jalpaiguri, Rajshahi, Bogra, etc., to-day as those places once formed part of the mighty kingdom of Kamrup. Why those places should not be given back to Assam now? So these questions cannot come at all. We will fight to the last if Goalpara or Cachar be transferred to Bengal or any other place. Nobody has any right upon these tracts because they form part of Assam proper.

The point simply is this—if Sylhet now actually goes to Bengal what will be our position, what will be our feeling over this matter. I personally feel and I believe most of my friends of this valley

feel that if they are really anxious to go to Bengal whether with rhyme or reason or not we must not obstruct them at any cost. It will be of no use. They will drag this matter on in this Council and it will be neither to our advantage nor theirs. We do not want this tug-of-war. We must give a final pull this way or that. Now if Sylhet goes to Bengal, what will be our position? Of course by this resolution which has been moved by my friend Mr. Dowerah we do not tie the hands of the Government of India or our Government in any way. They will be quite free to act as they like even with this resolution or without it. Supposing they give effect to the first part of the resolution, they may not give effect to the second part of the resolution. But that is no reason why we should not express our own views regarding ourselves. That is what we feel. Whether Sylhet be here or not Government should not disturb our present status under any circumstances. That is what we really feel. Governor's status cannot be impaired, that is our unanimous feeling.

With these few words—I do not know what is the resolution before us (*laughter*)—I should be inclined to support the resolution moved by my Hon'ble friend Mr. Dowerah.

The Council was then adjourned to Thursday, the 7th January 1926, at 11 A.M.

B. N. RAU,

Secretary to the Legislative Council, Assam.

SHILLONG :

The 9th January 1926.

RESOLUTION REGARDING REUNION OF SYLHET WITH BENCAL.

THE HON'BLE THE PRESIDENT:—We may now proceed with the discussion of yesterday's resolution. I think there are other members who are desirous of speaking in this motion.

MAULAVI RASHID ALI IASKAR:—Sir, having found some of the members making some reference about the district of Cachar—though I had no mind to speak on this matter again—I cannot help adding a few words in this session.

First of all, Sir, some of the hon. members and specially the hon. mover of the resolution appears to think that the resolution as it is was passed once before but practically it was not so. At first the resolution was passed including Cachar district and unless Cachar were included in that resolution there was every likelihood that that resolution would have been defeated at that time. So the resolution as now sent in is not the same resolution that was passed in the previous session of the Council which carried the motion for the transfer of Sylhet and Cachar to Bengal.

We find now somehow or other that Cachar is left and now again comes the simple resolution for the transfer of Sylhet to Bengal. And so the simple question of the transfer of Sylhet to Bengal cannot be taken to have been passed before. Now seeing that the resolution of the Hon'ble Rai Bahadur Promode Chandra Dutta was published I believe before the present resolution was sent in and I think this present resolution as all other resolutions in the agenda are nothing but so many amendments to the main resolution. The main resolution is whether Sylhet should or should not be transferred to Bengal and all other resolutions are mere amendments. Now if we leave aside the jugglery and play in words in this resolution then we find either this resolution is a simple conditional resolution or a resolution exactly like that of the Hon'ble Rai Bahadur Promode Chandra Dutta simply adding a wish that also separately I believe—that the proper authorities may be very kind to see the fate of the rest of the province afterwards. Now, Sir, practically the resolution as it stands appears to be a conditional resolution but by some sophisticated arguments by the hon. mover of the resolution he appears to let the House understand that it is an unconditional resolution.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :—
But, Sir, there is no obscurity now.

MAULAVI RASHID ALI LASKAR :—Then, Sir, when the resolution was passed last in this Council the Government opposed the resolution, but still an unconditional resolution was passed in this House, but afterwards when the Government recommendation went to the Government of India a condition was added to that. The Government of India in their letter said that you must say yes or no on a clear unconditional resolution. So this question has again been brought in this Council. Now, if that be so, and if the Government opposed the unconditional resolution before I do not see how the Government benches can take any other view of the matter now than opposing a simple unconditional resolution, and I do not see how the Government benches can take shelter under a condition which has been very unequivocally rejected by the Government of India. The Government benches may either support or oppose an unconditional resolution.

Then, again, I would ask the planter members a few questions. I believe they originally opposed the unconditional resolution—I see some of them have been substituted by new members, but I think they should respect the opinion given by their predecessors, and if that be so, let them see as was appropriately remarked by the hon. Mr. Roffey that this would be the thin end of the wedge, and I shall presently show how it is so. If they opposed the unconditional resolution once they should at least for the sake of consistency oppose the unconditional resolution this time also. They cannot but do so for the sake of consistency. If they now want Sylhet to go one cannot but come to the inference that they want Sylhet to go not for the sake of Sylhet's desire to go but because they see—they cannot but see with the Government of India's letter

before them that the rest of the province will lose the reformed Council—it would lose its representation and responsibility, and that it would be practically a planters' province ruled by a few Indian Nawabs. (*Laughter.*) But I hope my hon. friends will not entertain so low a motive. They are already so benevolent in their nature that they will not entertain any such motive. (*Laughter.*)

Then I want to ask a few questions from my friends of the Assam Valley. The hon. mover who is the leader of the independent party has for the sake of this resolution given up his leadership without taking anybody's advice

SRIJIT KULADHAR CHALIHA:—Are you not a member of this party?

MAULAVI RASHID ALI LASKAR:—That is why I say without consulting anybody, without consulting any member of his party.

Let us see the motive behind his mind. He says that there has always been rivalry between the two Valleys.

BABU KHIROD CHANDRA DEB:—Has any hon. member any motive in moving a resolution?

THE HON'BLE THE PRESIDENT:—Let the hon. member finish.

MAULAVI RASHID ALI LASKAR:—The hon. mover said that there has always been rivalry between the two Valleys. Did he not hear him say so? (*Laughter.*) He cannot in the same breath say that that rivalry will go as soon as Sylhet goes. There are other districts in the Valley. Some of his friends again supported him in saying that there are other districts in Assam which are absolutely Assam districts. I do not know how they say so. Did they get their districts by conquest? (*Laughter.*) Because according to history the district of Cachar at least did not belong to Assam, though I find that by some mistake it has been said that Cachar is an Assam district. But how is this? The people of Cachar were not conquered. As soon as they accepted the British rule of their own accord it was annexed to Bengal, and it was under the Commissionership of the Dacca Division, and there are records in the Silchar record office to bear this out, and when it came to Assam it came along with Sylhet, and not before that

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Six months before Sylhet.

MAULAVI RASHID ALI LASKAR:—Oh, a difference of six months? (*Laughter.*)

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—Cachar came along with the other districts of Assam.

MAULAVI RASHID ALI LASKAR:—Then, Sir, as for the Assam Valley members I may be wrong, but perhaps they are cherishing the idea that when Sylhet goes there will be a unique Assamiya province with *swaraj* therein. Is it within practical politics? Taking Cachar and Goalpara and the big Bengali-speaking population of the two districts I do not see how there can

be a simply Assamiya province unless some coercive measures are taken to force the people to adopt the Assamiya language.

Then, Sir, another point of view. As very lucidly explained by the Hon'ble Saiyid Muhammad Saadulla yesterday, taking the little population of the Assam Valley it would be next to insanity to believe that a Governor's province can be retained for the Assam Valley alone. There may be an increase of population. What sort of population? Tea garden population who have got no votes yet, Mymensinghias who have been described as half barbarous people. With their increase they will maintain the status? Clearly not. (*Laughter.*) This is an illusion which, God forbid, will be removed very soon, and when it has been removed my friends will grieve for that.

There is another peculiarity. I find since the beginning of the discussion of this resolution that my friends of Sylhet having in their opinion attained their objective are keeping a dead silence, I presume because they have realised in their heart of hearts that if they go, the fate of the remainder of the province is sealed. These people want the same status as now. Now, if my friends of the Assam Valley are so charitable as to wish Sylhet to go without having regard to their own fate, whether they will have a Governor's province or a Commissioner's Division, if they be so charitable, personally they may be, but whether as representatives of their constituencies they be so charitable as to wish whatever may come to the rest of the province at least if Sylhet may go is unknown, that may be a different thing. But they say "let us part with Sylhet as friends" but do they really mean it? It would be very little less than hypocrisy to say that "let us part with Sylhet as friends" and not to say "let us get rid of Sylhet." And if they be so charitable, let them I request be so charitable to Cachar also, because the people of Cachar are fearing the very attitude taken by our friends of the Assam Valley, and so they request that if not to-day let my friends to-morrow support their friends of Cachar—to part with them as friends as they are now trying to part with Sylhet :

SRIJUT NILMONI PHUKAN:—They are family members.

MAULAVI RASHID ALI LASKAR:—As for the Cachar people, these people have not migrated from the Assam Valley, they have not migrated from the hills, they have not dropped from heaven. The Cachar people are descendants of Sylhet and because they happen to be in a separate geographical limit and because they obstruct a hill district, the Lushai Hills, and for the cost of which the district pays, because of that alone they are to suffer and suffer for the Assam Valley? Their position is they do not want to go to Bengal, their main object is to remain with Sylhet. If Sylhet remains they want to remain, if Sylhet goes to Bengal they want to go also. That is the position of Cachar. (*Hear! hear!*) I represent not only my own constituency but I represent the opinion of the entire district. And one final word to my friends of Sylhet. I have already explained my position. If we can remain with them:

here in Assam, well and good; but if they leave us behind forgetting as they have recently managed to forget the case of Cachar through whose aid they got the resolution passed I request that they may not manage to forget the case of Cachar if they go to Bengal again. So, I oppose the resolution.

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—Sir, I rise to oppose this resolution on two grounds. Firstly, it is against the spirit of the letter of the Government of India following which this special session has been summoned. Secondly, the majority of the people of Sylhet are not willing to be united to Bengal. While opposing the resolution of Babu Brajendra Narayan Chaudhuri in July 1924 I explained in detail as to the rigorous nature of the Land Revenue Regulation of Bengal, the Tenancy Act of Bengal, the starving condition of the Local Boards and the increased rate of Chaukidari tax. I will not recapitulate them now. But I must mention that Sylhet can very reasonably boast with the neighbouring district of Bengal of having a better and larger mileage of main and village roads, of having better and larger number of dispensaries, of better arrangements for *kala azar* treatment and of giving free primary education. Sir, the House knows the people of Sylhet have been crying hoarse to give them a medical school at Sylhet and we heard very often, on more than one occasion from the Hon'ble Minister in charge of Local Self-Government that he would do his best to give at least a start to the medical school during the term of his office. But, Sir, if we are transferred now, Sylhet can never expect to have a medical school for at least 20 years to come. Sir, the hope of getting a medical school at Sylhet will thus be nipped in the bud. Considering the number of scholarships enjoyed by Tipperah and other neighbouring districts of Bengal both in school and collegiate education and also in medical schools and colleges we are afraid that our scholarships will surely be curtailed if we are transferred to Bengal. Sir, here we have been clamouring and clamouring rightly against the imposition of increased rates of court-fees and we are making proposals to make use of that money to the best advantage of the people for supplying water in rural areas. But, Sir, if we go to Bengal what becomes of us? We get a permanently increased rate of court-fees, a bit higher than even what we are now paying temporarily. These are, Sir, the disadvantages which the people of Sylhet will be subjected to, and under which the masses of the people will be the worst sufferers. Now, Sir, let us see what are the advantages that we are going to get in Bengal to counterbalance the disadvantages narrated above and what heaven and earth will be created for us there. We are told that we would get a wider field for higher political activities in Bengal. But, Sir, having regard to the disadvantages I think the supposed political advantage is of no value. We do not know how far we will be able to make our existence felt in Bengal and make our voice effective in the Bengal Council. These, Sir, are questions which deserve serious consideration; it is very likely that we will be the tail end of Bengal, much neglected and uncared for. Sir, there is a Bengali proverb শশুয় বাড়ী মধুর হাড়ি ।

It will be seen that many of our friends

BABU KSHIROD CHANDRA DEB:—Is he in order, Sir, in making personal reference?

THE HON'BLE THE PRESIDENT:—He is not making any personal reference.

BABU KSHIROD CHANDRA DEB:—He said “শুশুর বাড়ী মধুর হাড়ি” ।

THE HON'BLE THE PRESIDENT:—Yes, he only said শুশুর বাড়ী ।

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—I simply said শুশুর বাড়ী মধুর হাড়ি ।

THE HON'BLE THE PRESIDENT:—That is in order.

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—It will be seen, Sir, that many of our friends both in and outside the House who have been leading this agitation for the transfer of Sylhet to Bengal have their মধুর হাড়ি in Bengal. That is why, Sir, they cannot see eye to eye with us and think with us, although many of us pointed out to them the disadvantages which seriously affect the material interests of the people of Sylhet. Sir, I have many Muhammadan friends in Bengal with whom I mix once or twice a year. I consulted with them as to our prospects in Bengal but they did not welcome the idea. The result of voting in the Bengal Council on the question of the transfer of Sylhet to Bengal in December last will show that the majority of the Muhammadans did not support it.

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:—A good many did.

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—But a good majority opposed. Sir, by our going there we do not improve the numerical strength to any appreciable extent and it is very likely that our people will receive a set back for many years to come. I consulted many of my thoughtful Hindu friends. They also agreed in thinking that for some years disadvantage will have to be suffered. Sir, under these circumstances it will be a political blunder to support the transfer by any means or under any conditions and I would therefore request the members of Sylhet to consider the question seriously once again before they go to the lobby. I request them not to be led away by sentiment or by the idea of any political victory or defeat but to look to the interests of the people as a whole. Sir, in spite of the expression of opinion of our representatives in the Council in July last, the Government desired to be satisfied as to the real wishes of the people and started an enquiry. From the Government report it will be seen that Mr. Bentinck, the Commissioner of the Surma Valley, found that the people of Sylhet had no real wish at all to go. He writes that if they have any opinion at all it is the opinion of their landlords and the latest orator of a village meeting. He then remarks further

that there are indications that the feeling against the re-union was growing and was likely to become more vocal. Sir, does it mean that the majority of the people of Sylhet are willing to be united with Bengal. I think it will not justify the Government of Assam to give any indication whatsoever to support the resolution before the House. I think in matters like this a clear and unambiguous expression of opinion in favour of the transfer by the people is absolutely necessary to warrant the Government of Assam to vote in favour of the resolution.

Sir, some people of the South Sylhet Division, Mussalmans and Hindus, have sent in written instructions to me to indicate their unwillingness to the transfer of Sylhet to Bengal and I will read them here.

মহামহোপাধ্যায়,

শ্রীল শ্রীযুক্ত খানবাহাদুর মৌলবী আলাউদ্দিন আহম্মদ চৌধুরী, আসাম
গবর্ণমেন্ট কাউন্সিলের সদস্য সাহেব মহোদয় মহিমার্গবেধু—

মহাশয় ! আমি জনৈক প্রাইমারী স্কুলের শিক্ষক, বিগত ১৯শে ডিসেম্বর বাহাদুর শ্রী মধ্যবঙ্গ স্কুলে আমাদের শিক্ষকসম্মিলনীর এক অধিবেশন ছিল, এই অধিবেশনে শ্রীহট্ট বঙ্গভুক্ত হওয়া প্রয়োজন কিনা এ সম্বন্ধে একটা প্রশ্ন উঠিয়াছিল, তৎপরে ইহাই স্থিরীকৃত হয় যে শ্রীহট্ট বঙ্গভুক্ত হওয়া বিষয়ে বাহার মত নাই তিনি একথানা ফারমে দস্তখত করিবেন। উপস্থিত শিক্ষক সভ্যগণ মধ্যে আমরা অনেকেই নাম দস্তখত করিয়াছি।.....

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA :
—How many signatures?

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—You will see. There are 27 signatures here (At this stage Babu Kishna Sundar Dam was speaking something which was not heard at the Reporters' table). I should not be interrupted like this. I must have liberty of speech.

THE HON'BLE THE PRESIDENT:—He should be allowed to proceed. He should not be interrupted in this way.

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—

তৎপরে একটা নতিদীর্ঘ বক্তৃতা প্রসঙ্গে আমি বলিয়াছি যে শুধু নিজের লাভ না দেখিয়া বাহাতে দেশের সর্বসাধারণের মঙ্গল হয় একরূপ কার্য্যেই সকলের সহানুভূতির একান্ত আবশ্যক, আমার সম্পূর্ণ ধারণা যে শ্রীহট্ট বঙ্গভুক্ত হইলে এদেশের কি লাভ বা ক্ষতি হইবে তাহা অনেকেই

এখনও হৃদয়ঙ্গম করেন নাই। আমরা জানি বঙ্গ প্রদেশের প্রজাস্বত্ব আইন আসাম প্রদেশ অপেক্ষা জটিলতর, সেখানে সরস্বতীর বরপুত্র শিক্ষিত সংখ্যা অনেক বেশী। আসামের একজন মেট্রিকুলেশন পাশ ব্যক্তি তাঁহার এই যোগ্যতায় যে চাকুরী বা সম্মান প্রতিপত্তি লাভ করিতে পারিতেছেন, বেঙ্গলের একজন বি, এ, পাশ ব্যক্তিও সেই সম্মান প্রতিপত্তি লাভ করিতে পারিতেছেন না। কেন না বেঙ্গলে ঘরে, ঘরে, এম্, এ, বি, এ, পাশ করা লোকের অভাব কি? আসামের যে সকল শিক্ষিত মহাত্মাগণ বঙ্গভুক্তির জন্য আর্দ্রনাদ করিতেছেন তাঁহাদের দাবী বর্তমান বঙ্গবাসীর দাবীর পশ্চাতেই থাকিবে। যেহেতু এদেশে সেই দেশের তুলনায় শিক্ষিত সংখ্যা নিতান্ত অকিঞ্চিৎকর।

সাধারণেও একটা কথা বলে যে স্বর্গের কীট অপেক্ষা নরকের প্রভু হওয়া সহস্রগুণে ভাল, সে যাহা হউক আমি এই নীচুমুখে উচু কথা বলিতে গিয়া দেশবাসীগণের এত পরিশ্রম পণ্ড করিতে বা অপ্রীতিভাজন হইতে চাই না।

আপনি একমাত্র আমাদের সুযোগ্য মূখ-পাত্র, আসাম বঙ্গভুক্ত হইয়া যখন সুখে কালান্তিপাত করিবে তখন দেশবাসী বলিবেন পরমেশ্বর আমাদিগকে এখন বড়ই সুখে প্রাচীনের রাম রাজ্যের প্রজার মত প্রতিপালিত করিতেছেন, আর যদি তাহার বিপরীত ঘটে তবে হয়ত সর্বসাধারণ বলিবেন যে আমাদের নেতাগণ, শুধু তাঁহাদের নিজের স্বার্থের জন্য বঙ্গভুক্ত করিয়া আমাদিগকে বিপদে ফেলিয়াছেন।

অতএব আমি এই সভার পক্ষ হইতে মহোদয় সমীপে সনির্বন্ধ প্রার্থনা করিতেছি যে শ্রীহট্ট বঙ্গভুক্ত হইলে এদেশের কি লাভ বা ক্ষতি হইবে তাহা সর্বসাধারণের হৃদয়ঙ্গম করাইয়া পরে ভোট সংগ্রহ করিলে দেখা যাইবে এদেশের সাড়ে পনের আনা লোকই বলিবেন আমরা যেমনটা আছি তেমনই থাকি। আমি একজন সামান্য স্কুলের শিক্ষক, অসম সাহস সহকারে মহোদয়ের নিকট লেখনী ধরিয়া যে সকল বোঝাবি করিয়াছি-

তাঁহা আপনার স্বীয় অমায়িক গুণে মার্জ্জনা করিয়া প্রতিপালিত করিবেন,-
ইতি ।

একান্ত আজ্ঞাধীন—

১৫৪ নং
কামালপুর আইনারী স্কুল,
২২ শে ডিসেম্বর ১৯২২ ই ৫।

}

শ্রীকামিনীকুমার দেব,

প্রধান শিক্ষক ।

KHAN BAHADUR ALAUDDIN AHMED CHAUDHURI:—There is, Sir, another letter written to me containing signatures of 2,000 people. This is from Maulvi Abdul Wadad and Abdul Wahaab:—

“That we are induced by some of our countrymen to approach you to express their opinion that they are not at all willing with the proposal of the ‘Sylhet-Bengal amalgamation and to request you on behalf of them to represent the idea that they are strictly against this proposal,’ i.e., they are firm willing to remain in Assam.

The signatures of about 2,000 leading members obtained from several gatherings are attached herewith, the receipt of which please acknowledge.”

There is a third letter in Bengali from Maulavi Syed Rehanuddin Hussain and Maulavi Zohi Alam Chaudhury.

ছালাম পর নিবেদন এই—

শ্রীহট বঙ্গভুক্তি না হওয়ার জন্য আমাদের এখানে এক সভা হইয়াছিল
তাহার কপি এতদসঙ্গে পাঠাইলাম আপনে অমুগ্রহ প্রকাশে আমাদের
পক্ষে কাউন্সেলে তাহা জ্ঞাপন করিয়া বাধিত করিবেন, ইতি ।

কোলা,

২৮ শে ডিসেম্বর ১৯২৫ ।

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শ্রীমৌলবী ছৈয়দ রেহানউদ্দিন হুসেন,

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শ্রীমৌলবী জহি আলম চৌধুরি।

These, Sir, clearly show, how the people who have been able to realize the issues are thinking. It will be further seen from the report of the written opinion of the Hon'ble Minister for Local Self-Government that he too thought—and sincerely thinks that the transfer of Sylhet will not be to the benefit of the rest of Assam and of Sylhet as well. He gives the figures of the Bengali-speaking population of the province and wrote in his note:—

“The province is therefore essentially a Bengali-speaking province and if Sylhet is to go away why not the rest?”

But now he says, Sir, that Sylhet alone should go. He further says:—

“Again, if Sylhet goes, can the claim of Cachar and Goalpara be resisted? If the wishes of the people and racial affinity are any criteria, these two districts have the same claim as Sylhet.”

He writes further:—

Again if Sylhet alone goes, over 23 lakhs of the Bengali-speaking people go away. What about the remaining 12 lakhs? The Bengalees who were the predominant people in the province will at once sink down to a very secondary position. As a Bengali I feel for them and would naturally like to take them with us.

But now, Sir, he wants to go alone. He is now supporting a resolution leaving Cachar and Goalpara behind. Then he feels a great sympathy for the Muhammadans of the Assam Valley and writes:—

“Then, again, if the Muhammadans of the Surma Valley or even of Sylhet go away, the Muhammadans of the Assam Valley will be in a minority and lose the strong position they now hold. I have spoken to some Muhammadan gentlemen of the Assam Valley and they fully realise the danger.”

Now, Sir, the House will see which way the wind is blowing. Besides the above he warned the people of Goalpara also. He writes:—

“Minus Sylhet, Goalpara will be the only permanently-settled province in the midst of a number of temporarily-settled districts—the danger is not fanciful and Goalpara knows it.”

It will thus appear, Sir, in what mind he gave notice of the resolution for the transfer of Sylhet to Bengal and how he is supporting the present resolution. I would request the hon'ble members of the Assam Valley to see the sincerity of his movement and activities.

Mr. Nilmoni Phukan in his speech yesterday remarked that the separation of Sylhet Muhammadans will not affect the interests of the Muhammadans of the Assam Valley and mentioned that there are two Muhammadans of his valley decorating the Cabinet. I say, Sir, that these appointments are due to the numerical strength contributed by the Surma Valley Muhammadans; otherwise the Assam Valley could not have expected a Muhammadan Minister at all.

Mr. Phukan further made mention of the Viceroy's speech yesterday as to the satisfactory manner in which the Reforms are being worked out in Assam. Does he think that the Reforms have been worked out without Sylhet? Does he not equally remember how His Excellency the Viceroy warned us all to consider the momentous question seriously having regard to all the circumstances, and I would request Mr. Phukan to bear in mind the speech of the Viceroy as a whole.

Mr. Phukan further observed that the loss of 33 per cent. of the population of the district of Sylhet will be counterbalanced by the

emigrants from the Bengal districts. If we mathematically calculate the number of the immigrants for the past years as pointed by the Hon'ble Maulavi Muhammad Saadulla, it will, I think, take about 50 years to have 26 lakhs of people inhabiting the district of Sylhet. Sir, even this calculation is likely to fail for want of lands in the Assam Valley and also for the want of sympathy from the members of that Valley.

Thus having regard to all the circumstances I am strongly opposed to this resolution.

Mr. TARAPRASAD CHALIHA :—Sir, although I gave notice of another resolution I would like to speak in support of this resolution and withdraw my own. This resolution is so framed that the Government of India will be in a position to take action on it because as amended by the Hon'ble Rai Bahadur Promode Chandra Dutta the first part is now quite independent of the second part. Of course formerly it was not designed to be independent of the other part but now the wording has set all doubts at rest. But the interests of the Assam Valley will be equally protected by this resolution as by the other one of which I gave notice. It is the general desire of everybody in Assam that for the peaceful administration of the rest of the province the question of reunion of Sylhet should be settled to the satisfaction of the people of Sylhet (*Hear! hear!*). After all the discussions we have heard I have no doubt there is a genuine feeling among all sections of the people of Sylhet to be united with Bengal. Of course Khan Bahadur Alauddin Chaudhuri has read some papers in which a contrary opinion is expressed, but here the decision of this Council will prevail over any opinion expressed outside. And here public opinion of Sylhet is very well represented in this Council. In fact their representation is far higher than the representation of the people of the Assam Valley. So I have no doubt that their members will decide to-day, will represent the real feeling of the people of Sylhet and we have no reason to behind that decision. We have heard a great deal about the advantages which Sylhet will derive by being reunited with Bengal, but now I want to say that the Assamese people also, the people of the rest of the province, will also be benefited by their reunion because although we have never grudged the special advantages enjoyed by our Sylhet brethren in this province, yet we feel that once Sylhet is removed much Government friction will be removed from our Council from within the administration and we shall have a more homogeneous people following common ideals, following our own national ideals and advance on our own lines. I have already said that the conditions of Sylhet are quite different from that of the Assam Valley. In Sylhet the incidence of taxation is only Re. 1-6-0 per head whereas in the Assam Valley the incidence of taxation per head is Rs. 3-2-0. Now if we are to continue like this will it be fair to maintain the incidence of taxation like this in future? At the same time it will be very difficult to adjust the taxation to an equitable basis. Moreover, I have already said we the Assamese are not getting sufficient representation in Council

and if Sylhet is to remain in Assam we shall continue to suffer from this under-representation. Once Sylhet is removed, we shall have a homogeneous people following our own interests.

Now, Sir, fear has been expressed by our Muhammadan brethren of the Assam Valley as to the disadvantages that may result to their community by the transfer of Sylhet. I beg to submit that the Muhammadans of Assam Valley have more interests in common with their Hindu brethren of this Valley than with the Muhammadans of the other Valley. And in these days communal considerations and sectarian considerations should give way before other higher considerations, national considerations. As a matter of fact our Muhammadan brethren of this Valley have very little to complain of. There have always been very cordial feelings between the Hindus and Muhammadans. Even in the election to local Boards we find Muhammadans are fairly elected by Hindu electors. In the Sibsagar Local Board and North Lakhimpur Local Board one Hindu seat in each case has been given to 9 Muhammadan members. This testifies to the general cordial feeling throughout the whole Valley between the Hindus and Muhammadans; and in the matter of treatment by Government also we find that Assam Valley Muhammadans are well represented in all the departments. In future also I think they will have no cause of fear.

Then another apprehension is raised that once Sylhet goes the question of the transfer of Cachar and Goalpara will arise. But I feel sure that there has never been any desire on the part of the masses of Goalpara and Cachar to be united with Bengal and moreover only a few isolated factions may have expressed such opinion, but the masses themselves do not want to go. Those districts have always formed part of Assam and they cannot cite the instance of Sylhet as a precedent. It will not help them in the least. So we have no fear on that account. Thirdly, the the question of status—our Hon'ble Minister for Education has said that the question of status has been dealt with in a co-ordinate clause which is not a condition precedent to the recommendation for transfer. I beg to submit that we do not lose in any way by putting the recommendation in that form because the question of status is not really relevant to the question of the union of Sylhet with Bengal (*Hear! hear!*). However we have to take notice of this because incidentally that subject has been referred to in paragraph 4 of the Government of India's letter. If there had been no reference to that we need not have touched on it at all because we have such a strong case and there are such strong grounds for us to press for the continuance of the present status and for granting us advancement of political rights, that we need not have passed any resolution on that subject at this stage. However since the Government of India thought fit to refer to that subject we as a matter of caution have made reference to that subject now. It is better to err on the side of caution. The reduction of the status of Assam is inconceivable because it would be inconsistent with the undertaking of the Secretary of State that where the working of the Reforms have

satisfactory further advance would be given by the Statutory Commission. Assam has worked the Reforms satisfactorily for the last six years and no less an authority than the Viceroy himself has acknowledged it. And I do not think that after these six years any retrograde step is possible. The Hon'ble Education Minister also referred to the 9th Despatch and the misery proposals made in that Despatch. However, it must be said that the proposals contained in that Despatch were far in advance of the times in which that Despatch was written. Even in that Despatch the Government recommended an advance on the then existing status. As a matter of fact that 9th Despatch was overruled and we got a status practically equal to the status of Bengal. In future also we have no reason to fear that Government will propose a lower status for us than the neighbouring province of Bengal. If the worse comes to the worst, if such a lower status be proposed then the plains districts can press for union with Bengal. In fact there would be no reasonable cause of fear on that score. Assam has a very glorious history and we had self-governing institutions of our own under the Ahom Raj which was a form of oligarchy. The Assamese people made very wonderful roads and tanks and temples and bridges which even now command the praise of modern engineers. Reinforced concrete work is a modern invention, a modern idea of Western countries. If we go and see the Ahom structures we find reinforced brick work three or four hundred years old. In other respects also the Assamese were an advanced people. They were endowed with a political genius whereby they could keep peace on the frontiers of Assam and they even exacted penalties from the frontier tribes. The Assamese literatures once was a very flourishing literature and embraced all fields of knowledge—science, history and religion. I do not think that in this 20th century the British Parliament will ever think of putting such a people as the Assamese again back in the path of advance, or in any way place obstacles in their way of their development. If we are given a chance even now we shall be able to show our worth, to take a respected place among the nations of India. So I have no fears that the Government of India or the British Parliament will ever take a retrograde step, and for the good of the Assamese and for the good of the district of Sylhet I support this motion.

MAULAVI ABDUL MAZID ZIAOSSHAMS:—Sir, before speaking on the resolution itself I would briefly refer to the Government of India's letter which we have got from Mr. Tonkinson which is relevant to the purpose of the discussion of the resolution itself. The Government of India say in paragraph 6 that the Government of India trust that these conclusions will clear the ground for a final decision of the question in the Assam Legislative Council. Sir, far from clearing the ground for a final decision I would submit this Government of India's letter is a puzzling document. The Government of India wanted that we should pass an unconditional resolution in the Assam Council and then they wanted an unconditional opinion from the Government of Assam itself. But we at the same time can claim the same amount of unconditional reply or

opinion from the Government of India itself. The Government of India have not cleared its position though the issues before them were very simple. The issues were whether Sylhet should be transferred or not, and next whether the status of the province should remain intact or not. These were the two simple issues. The former issue whether Sylhet should be transferred or not I think was decided by this Council, to transfer Sylhet. The Government of India could have at once said "Well, this is our position with regard to the status". They have not done so and I should say, Sir, it was very improper of the Government of India not to have done so (*hear, hear*), because this has produced some misgivings in our minds. Had the Government of India said before that this would be their position if Sylhet were transferred to Bengal with the clear issues before us we could have decided at once whether we should vote for the resolution which is being discussed or whether we should oppose it.

Now, Sir, what is the purpose which has actuated the Government of India from not clearing that position? I would submit, Sir, this may be one of the purposes. The year 1929 is drawing near, when all the other provinces of India will clamour for better and higher political rights besides mere status, and Assam being the backward province will think of no other or better political rights than that of the status of the province. If Sylhet is transferred to Bengal then Assam will be busy with no other question but that of their existence and the Government of India sitting on the hills of Simla will smile at us and see how we are pleading and playing into their hands. Sir, 1929 is drawing near and I believe everybody in this House should think thrice and ponder this question before they vote for it. If they find that our status is guaranteed by the Government of India then let them vote with a clear mind, but if they find that their status is not guaranteed, that they are risking their very existence as regards status, I think they should not vote because that would be a pretext of the Government of India. You are now busying yourselves with the status point instead of higher political rights. So I say that before we are assured of our status we cannot vote for the transfer of Sylhet to Bengal. I would ask all my Assamese brethren to think over this question. Then there may be another position of the Government of India that perhaps they are not now in a position to think as to what would be the status of Assam, because we know, Sir, that the attitude of the Government of India with regard to the status will carry very great weight with the Secretary of State and whatever recommendation is made will be given very careful consideration, and there is every likelihood that what the Government of India recommend will be carried into effect by the Secretary of State for India. So, Sir, the Government of India has not given any clear and unconditional reply, and consequently they have no right in the fitness of things to fetter our rights to discuss the matter in the same unconditional way, namely, that unless our status is guaranteed we cannot allow Sylhet to go to Bengal. I think, Sir, this is the position to which we have been driven by the Government of India's

letter. But then, Sir, if we read between the lines carefully there is some despair which arises unconsciously in our minds, namely, the Government of India have said that after the population of Assam is reduced in the event of the transfer of Sylhet by 33 per centum they would be unable to state what would be the status. This, Sir, is ominous, and I should think, Sir, the Government of India, say, though not in so many words, that the reduction of the population of Assam which is a necessary consequence of the transfer of Sylhet to Bengal would be a great factor in deciding adversely the question of the status of Assam. I can put no other meaning to these last lines of paragraph 4 of the Government of India's letter which we have received from Mr. Tonkinson. If that is so, Sir, I think we cannot vote for this motion. Then, Sir, we know that before the reforms were extended to Assam some of our authorities was unwilling that Assam should get the full advantage of the reforms, but we got sympathy in some quarters and reforms were extended to us. Now after the transfer of Sylhet our population will be considerably reduced, and I think it will be a pretext with our authorities to say well Assam is already backward, your population has been reduced so you cannot get the status *quo anti* of your province. Now, Sir, to us the question whether Sylhet lose or gain by the transfer is not so very a primary thing as the question whether we who remain in Assam lose or gain by the transfer. The instinct of self-preservation within certain limits guides a man's activities in the most dominant way than any other thing, and the little blessings, little advantages, however small and however insignificant they may be which we have got from a Governor's province cannot be sacrificed to the question of the transfer of Sylhet if our status is impaired. So the question of the transfer of Sylhet to us is a subordinate thing, and in fact we should feel that it should be subordinated to the primary question of the status, and I emphasize once more that unless our status is guaranteed we cannot allow Sylhet to go to Bengal. The position of Goalpara is peculiar. My hon'ble friend Srijut Nilmoni Phukan was saying yesterday in this hall that only the Raja of Gauripur wants to go to Bengal and not others. I have, Sir, this telegram which I have got in my hand

SRIJUT NILMONI PHUKAN:—I rise to a point of order. The question of Goalpara does not arise.

MAULAVI ABDUL MAZID ZIAOSSHAM:—My friend raised the question yesterday, and so I am only giving a reply. The Hon'ble Minister for Education also made mention of Goalpara.

THE HON'BLE THE PRESIDENT:—He is perfectly in order I think.

MAULAVI ABDUL MAZID ZIAOSSHAM:—I was saying that this is a telegram from a very influential man of Mankachar to say that the people and public of Mankachar want that if Sylhet is united with Bengal the permanently-settled portion of Goalpara should also be transferred to Bengal. The deputation which waited upon His Excellency the Viceroy at Amingaon consisted of

many persons besides the Zamindars. Srijut Nilmoni Phukan said that because a certain kingdom had within its fold a small portion of people which may differ from the rest of the people on ethnological and on racial grounds, well it has got the right to retain that within its fold. I think that that is not a sound proposition. We know that within the province of Bengal during the time of the Moghuls there were many portions of other provinces, as well as under the British Raj, but in spite of that Bengal has been separated from those portions, and Bengal cannot claim them nor are those people willing to come to Bengal. Ethnological, racial and communal questions are dominating things, and the people have a right to demand where they want to be and where not to be. This is simply a side reference. By the transfer of Sylhet if it is at all affected we lose a substantial amount of people to vote for our political rights and liberties which will be necessary in 1929. So I would ask my friends to ask Sylhet to remain with us till that time because the more the number the greater the support we get to fight for a common fate. So, Sir, I would ask my Assam friends to think about this matter whether Sylhet will be necessary or not by the number of population of Sylhet by the amount of political enlightenment that they possess—of course we are equally enlightened—(laughter). So I would ask them to consider this matter whether we allow them to go or not, because we would require their support in education, in enlightenment, in political rights, in 1929, when all other provinces will be getting fuller rights. My sole intention in this speech is to emphasize the question of status, but as the resolution stands and as the amendment that I intend to move stands I think I cannot oppose this resolution either because I feel that there is justice on the side of Sylhet apart from all other questions and also because I feel, Sir, along with the Sylhet people, that the majority of them, there may be a difference of opinion, are willing to go to Bengal, and I think they have got a right of determining themselves where they want to be. Of course when this question is joined with other questions to us it becomes a minor question, but to Sylhet it becomes a primary question. I can neither oppose the resolution nor can I vote for it because Goalpara and Sylhet are the only two permanently-settled districts in Assam, and if Sylhet is transferred Goalpara will feel the pang of separation very keenly. And as regards the administrative advantages which we would have got in common for Sylhet and Goalpara from our rulers if Sylhet would have remained joined with our fate, we cannot claim the same advantages of administration when we will have to fight for them alone. At the same time I submit that the opinion in Goalpara as regards the transfer of Goalpara to Bengal is divided. Of the four Councillors I think the majority are for the transfer but then, Sir, there is a strong minority which cannot be overlooked at the present stage, and my hon'ble friends of the Assam Valley are also strongly opposed to the transfer of Goalpara to Bengal as they think that they have got some claim upon Goalpara, which I deny that they have any (laughter). But, Sir, so long as we remain in Assam we have got the right and it is our

privilege that so long as we remain in Assam we must have Assam as a Governor's province. But as I said before I cannot vote on this resolution. It has been split up now. Had it stood in its original form I would have voted for it, because I think it was a conditional resolution and the Government of India cannot expect anything better. So if I get any opportunity to move my amendment I shall vote.

BABU BRAJENDRA NARAYAN CHAUDHURI:—Sir, last evening in spite of the call from my hon'ble friend Rai Bahadur Sadananda Dowerah I refrained from taking any part in the discussion. But I find this morning that the main issues are being greatly clouded by extraneous matters and grounds which we covered and decided in 1924 are being resuscitated and discussed again. I am therefore compelled by a duty to my constituency and to the district of Sylhet to rise and protest and warn this Council against clouding the true issues. The only opposition so far in this Council to the resolution of Mr. Dowerah has come from some Muslim constituencies—I do not say members—in Upper Assam, and from two Muslim members—in this case I refuse to say constituencies—from Sylhet. I find, Sir, that the feelings among Muslims in Assam proper are sore and my esteemed friend the Hon'ble Maulavi Saadulla feels himself forlorn. I quite sympathise with him in his feeling of loneliness, but I would earnestly ask him to search his mind and see if the reason of his feeling lonely, the true cause of his loneliness is not in his mind. It is not in the small number of his co-religionists in Assam. Can he not feel that he is an Assamese, that he has the same traditions as my hon'ble friend Mr. Kuladhar Chaliha or Maulavi Faiznur Ali. I know, Sir, in this House he once prided himself upon the traditions of old Assam—I believe he spoke of stories of Usha and Anirudha. If he feels proud of these traditions, and as he does speak the language of Assam, I see no reason why he should not own the 46 lakhs of people which will still be left in Assam after the departure of Sylhet as his brethren and not feel forlorn. I feel sure, Sir, the 40 lakhs of the non-Muslims there will receive him as their brother, and I am also quite sure that from the high respect which he commands among the people of Assam generally for his abilities, he will be owned as the leader by my hon'ble friends Mr. Kuladhar Chaliha, Maulavi Faiznur Ali and Srijiut Kamakhayaram Baruah. Someone to-day said that there is no chance after the transfer of Sylhet to Bengal of a Muslim entering the Cabinet in Assam. I say, why not? If the communal feeling is got over, if Muslims and non-Muslims can feel like one nation, if they can all feel that they are all Assamese what is there to prevent an able and patriotic Moslem from leading the country and getting into the Cabinet?

Sir, we meet here in this session to discuss the question of the transfer of Sylhet in the light of the issues framed in the Government of India's letter to the Chief Secretary to the Government of Assam. I hope all hon'ble members have carefully read that letter. The Government of India therein say that they have finished the

preliminary enquiry and after finishing the preliminary enquiry they have framed certain issues which must be answered by the Government of Assam and the Assam Council and by the Government of Bengal and the Bengal Council before they arrive at a final decision. Sir, I would remind hon'ble members of this House of the quotation I made from the Montagu-Chelmsford report in 1924 where it was laid down that a clear request from the representatives of the people concerned must come through the local Council before any action can be taken. That showed that before any action is taken, before any enquiry is made, the Government insisted on being sure that there is a real public demand. That assurance was given by the people of Sylhet through their representatives in this Council and I believe they think that the general desire of the people of Sylhet is now a closed question. The Government of India have not made the slightest mention of the desire of the people of Sylhet in their letter although they made mention of the desire of a portion of the district regarding Jaintias and also about Cachar. Implicitly therefore they think that the question, the desire of the people of Sylhet to be included in Bengal, is a closed question. They are not satisfied that

REV. J. J. M. NICHOLS-ROY:—May I ask a question, Sir?

THE HON'BLE THE PRESIDENT:—Yes.

REV. J. J. M. NICHOLS-ROY:—May I know whether it is clearly stated that the Government of India has said that the question of the desire of the people of Sylhet is a closed question?

BABU BRAJENDRA NARAYAN CHAUDHURI:—I am sorry that the hon'ble member missed what I said. I said that by implication, because my argument is this, that in this letter the Government of India say something about the Jaintia Parganas, about the desire of the Jaintia Parganas. They say something about the desire of the people of Cachar, but they say nothing about the desire of the people of Sylhet. Also they say that they have finished the preliminary enquiry. The condition precedent to the preliminary enquiry was that there must be a clear request from the representatives of the people concerned.

REV. J. J. M. NICHOLS-ROY:—There is no clear statement.

BABU BRAJENDRA NARAYAN CHAUDHURI:—No, no clear statement. By implication I take it. If hon'ble members still think that the question of the desire of the people of Sylhet can again be raised in this Council and if they want proof we are quite ready to give them proofs but I am afraid the fifteen minutes now at my disposal will be too short for that. But I hope most hon'ble members have got themselves informed through the press of what have been going on in Sylhet for the last ten years, at any rate for the last two or three years. The reunion committee of Sylhet have made a list of public opinions recently given, that is the opinion given since the month of July 1925. I shall not read it. I shall leave it to some other members to read afterwards. So then it will be seen that most of the influential associations are still

in favour of the transfer. Sir, I shall discuss the issues raised in the Government of India's letter in their sequence. Paragraph 2 makes mention of Cachar. I find, Sir, that Cachar members are very sore. Indeed their feelings towards us, the members from Sylhet, are something like those of a jilted lady but I can assure them that we have not been unfaithful to them. We have tried the best we could for them. When I moved my resolution in this Council in 1924 I had no definite information about the state of public opinion in Cachar. I was given contrary versions. It was for that reason that I refrained from adding Cachar in my original resolution. After coming to this Council the majority of the members from Cachar requested me to accept an amendment including Cachar. I did that with alacrity. After the amended resolution was passed His Excellency Sir John Kerr in addressing this House said that he felt no difficulty about Sylhet but he wanted further light about certain difficulties he felt about the district of Cachar and invited the representatives to come and discuss those points with him. There, Sir, the representatives of Cachar missed a golden opportunity. The difficulty of the Government of Assam was about the Lushai Hills. Again, Sir, I do not know how the difficulty can be solved just now. But if I read the signs and portents of the times correctly I feel almost sure that the Hill districts of Assam will be separated sooner or later and I hope within about five or six years, and when this is done the case of Cachar will be a clear case. Indeed, Sir, I hope then that Assam will be very glad to get rid of Cachar

RAI BAHADUR SADANANDA DOWERAH:—No.

BABU BRAJENDRA NARAYAN CHAUDHURI:—I said all the hills. I need not speculate on what will happen six or ten years later, but that is my surmise. But one thing is clear, Sir, that if like Sylhet other districts also want to be cut off from Assam they must do so by mutual consent. The point of mutual consent was laid stress on by the Montford report. This is the easiest solution of the matter and in the case of Sylhet at any rate we are quite happy to have obtained mutual consent. Then Cachar's another difficulty has been that its request to be incorporated with Bengal has been dismissed by the Bengal Council. How that happened I do not know, because I know it is still the cry of Bengal that Cachar should be included. I am afraid that the representatives who pleaded for Cachar did not do full justice to their case.

About the question of deficit we need not discuss it here because it does not much concern this Council. Regarding the Jaintias, the Government of India say they would prefer a geographical boundary between the province of Bengal and that of Assam. I do not know whether a lengthy discussion here on the subject whether the Jaintias historically belong to Assam or Sylhet or what would be the natural boundary between Bengal and Assam if Sylhet is transferred would be of much service to the Government of India. I think, Sir, the best course for the Chief Secretary to the Government of Assam would have been to take one of the members of the Council

of the Governor General of India to the edge of the Jowai Hills and ask him to stand on a precipice on the border and look down upon the plains of the Jaintia Parganas. That would have been the most convincing reply. Anybody who has been to that part of the country will say unhesitatingly and at once that the Jowai Hills are the natural boundary between Sylhet and Assam.

Regarding the status, Sir, it appears that the Government of India's letter is not quite clear as Mr. Ziaosshams has said and it also seems to me that it is contradictory. The Government of India say that they consider that the future status of Assam is a separate question to be decided on its merits after the transfer. But in the same breadth they say that Assam for some time at any rate will remain a Governor's province. I do not know, Sir, how can the two statements be reconciled. How can the Government of India say that Assam will remain a Governor's province unless they have decided that it is to be remained so? If there were any doubt in the mind of the Government of India that the transfer of the district of Sylhet would do any injury to the status of Assam, it would have been their duty to wait for Parliamentary sanction before they with the consent of the Secretary of State can order a transfer. But they say that the question of the status will be decided after the transfer. If there is any doubt that the status of any of the eight major provinces conferred by the Government of India Act is in jeopardy, the Government of India with the consent of the Secretary of State cannot act under Section 60 because being a subordinate authority they cannot act in such a way as to undo the work done by the British Parliament. It would be like a servant after doing a prohibited act going to his master and saying "Sir, I have broken this, please repair it." The instant answer of the master would be "you had no jurisdiction to do it and therefore the thing is not valid". The Government of India's letter seems to have been written in a diplomatic spirit. My suspicion gained strength when I read in the Press a copy of a letter written by Mr. Chanda to Sir Alexander Muddiman and the report of an interview given to Mr. T. R. Phukan by Sir Alexander. Mr. T. R. Phukan says in that letter to the Press that he had a discussion with Sir Alexander about the question of status and ultimately Sir Alexander was obliged to say that there is not much in the reduction of population argument. How could Sir Alexander after being convinced by Mr. Phukan allow his Secretary, Mr. Tonkinson, to write in this letter "they are unable to state whether they would be able to support the continuance of Assam as a Governor's province after its population has been reduced by 33 per cent."

THE HON'BLE RAI BAHADUR PROMODE CHANDRA DUTTA:
—That is not Sir Alexander, but the Government of India.

BABU BRAJENDRA NARAYAN CHAUDHURI:—I know, Sir, that Sir Alexander alone is not the Government of India but I think a responsible member of the Delhi Cabinet would not lightheartedly agree to an argument which he knew and which he

had reasons to believe that he would not be able to support and carry in a Cabinet meeting.

Then, Sir, as to Mr. Chanda's letter Sir Alexander discussed the reduction of population at some length. He asked Mr. Chanda how could the status of Assam be maintained when it is reduced to less than 5 millions. From the trend of that conversation it appears that at least for the time being, Sir, Sir Alexander had some vague idea that 5 millions

THE HON'BLE MR. A. W. BOTHAM :—On a point of order, Sir. Is the hon'ble member in order in quoting these matters of private conversation?

BABU BRAJENDRA NARAYAN CHAUDHURI :—Sir, I may mention that these two letters were published in the Press by Mr. Chanda and Mr. Phukan and up to now Sir Alexander has taken no objection to it. Those letters were published about two months ago.

THE HON'BLE MR. A. W. BOTHAM :—It is not a question, Sir, whether the letters were rightly published in the Press. The question is whether the hon'ble member has any right to refer to them in this Council.

BABU BRAJENDRA NARAYAN CHAUDHURI :—May I make a submission, Sir? Communications passing from one public man to another of public interest if published by any of them can be made use of with propriety in this Council. This is my submission.

THE HON'BLE THE PRESIDENT :—Matters disclosed in private conversation, if any of the parties object, ought not to be published. In this case as the hon'ble member says, one side has published the communications in the paper and no exception has yet been taken, I think it may not be taken as violating the sanctity of private conversation if the hon'ble member refers to this.

BABU BRAJENDRA NARAYAN CHAUDHURI :—Sir, from that letter it appears that 5 millions is just considered as barely sufficient for the Governor's status. I shall presently show to this Council that by the transfer of Sylhet the population of Assam will not be reduced by much more than that. The population of the plains districts of Assam calculated by the Southborough Committee is 60 lakhs. I am taking only the plains districts leaving out the Hill districts which are not within the jurisdiction of the Governor's province of this Legislative Council. According to the 1921 Census the population of the same plains districts is 68·81 and we are told by the Government of Assam in their letter to the Government of India which is part of this Paper Book that since the last census the population has further increased by about 2½ lakhs and by the time Sylhet is transferred—I hope it will take about a year or six months—I expect that the population will be at least 3 lakhs more. Now deduct from 68·81 lakhs the population of Sylhet which is about 25 lakhs.

THE HON'BLE THE PRESIDENT:—I would ask the hon'ble member to finish soon.

BABU BRAJENDRA NARAYAN CHAUDHURI:—I will just finish. Then we get the result as 44 lakhs. Add to this the 3 lakhs of population which have increased since the last census, then we get 47 lakhs. I would like to ask this House in the light of these facts if they think that the population of Assam will be too small for the status of a Governor's province. In answer to a question of mine yesterday it has been stated that no higher authority has yet laid down a minimum population to entitle one province to a Governor's status.

THE HON'BLE THE PRESIDENT:—The Council stands adjourned till 2 P.M.

The Council was then adjourned till 2 P.M. for lunch.

The Council reassembled after lunch at 2 p.m.

MAULAVI MAFIZUDDIN AHMED:—Sir, this question of the transfer of Sylhet is a question of momentous importance and as such I think would be failing in my duty if I did not express my views in the matter. Firstly, as regards the question of status, I do not wish to go into details because that has been thrashed out by other hon'ble members in this House. Secondly, it has been emphasized by the hon'ble mover as well as by several hon'ble members that when Sylhet has been all along clamouring for reunion with Bengal we should not drag her behind us because in that case we will not get progress and will not have any policy finding that she is an unwilling partner. As for myself I cannot understand the soundness of the theory. Sylhet has remained with us for 50 years and in this period we pulled on together well and are still pulling on well. So I cannot appreciate at present the strength and force of the statement that with Sylhet we cannot progress and frame our policy in the near future. Then, again, it has been said that self-determination being the policy of the day it is but fair and prudent that we should not stand in her way in the fulfilment of her desire and destiny. Well, Sir, if this principle is once followed I am afraid that in the near future when the questions of the transfer of the districts of Goalpara and Cachar come up, the Assam Valley members will not have any right to deny the same privileges for our self-determination. Sir, I have been told by several respectable Muhammadan members of the Surma Valley, that they do not want to be reunited to Bengal and in this connection I have also got a telegram from that side. (*A voice:—From the Surma Valley?*) Yes, from the Surma Valley, and this only goes to show that this movement or agitation is not a sincere and honest one. Sir, I would request the hon'ble members of the Surma Valley especially the Muhammadans to seriously consider the condition of the Assam Valley Muhammadan members who will be in a hopeless minority if Sylhet goes, finding no pride of place in the country. It has been lucidly explained by our Hon'ble Minister for Education and I need not waste the time of the House on this intricate problem.

Lastly, I would have no objection to vote for the resolution if Goalpara and Cachar had been included, but at this stage when the question of Goalpara and Cachar is not under consideration I cannot but oppose the transfer.

With these few words I beg to oppose the resolution.

MR. J. C. DAWSON:—Sir, on behalf of the Surma Valley Planting constituency I oppose the resolution. If we are to go we say that Cachar must go as well. I am afraid, Sir, that even if Sylhet is transferred the agitation will still go on. One of the hon'ble members Brajendra Babu as he is known is the prime mover of all this and his great friend Chanda otherwise known to us as Kamini Babu is the next. Once Sylhet is transferred you will see that an agitation will forthwith start for the transfer of Cachar. As to Goalpara I cannot say as I do not know anything about that district. But these are the facts that are personally known to me. And I believe even the masses desire this. I have spoken to people on the Karimganj side and I have asked them who their representatives are, and they did not know even that. They do not know anything at all about the transfer itself. They are perfectly happy as they are and if they do not know even the hon'ble members who actually represent them here in this Council I am sure they do not know anything at all about the transfer.

I therefore oppose this resolution.

SRIJUT MAHADEV SARMA:—

সভাপতি ডাক্তারীয়া,

শ্রীহট্ট জিলাক সদক্ষিণ বিদায় দিবৰ প্ৰস্তাব সমৰ্থন কৰাৰ আগতে মই এবাৰ কথা কোৱাটো আৱশ্যক বুলি ভাবিছোঁ। শ্রীহট্ট জিলাক আমাৰ পৰা বিদায় দিওঁতে (ইমান দিন টকা দি পুতি) জয়ন্তিয়া পৰগণাও লগতে এবি দিয়াটোকে দক্ষিণা দিয়া বুলি কব খুজিছোঁ। মই এই দক্ষিণা দিয়াত ঘোৰ আপত্তি কৰোঁ। কাছাড়া আৰু জয়ন্তিয়াৰ লগত আমাৰ চিৰকলীয়া এটা সম্বন্ধ আছে আৰু সেই সম্বন্ধ আমি সহজে এৰিব নোৱাৰোঁ। মোৰ বিশ্বাস এনে অলপ সম্বন্ধৰ উত্থান ধৰিয়েই ভাৰত চৰকাৰে সিবিলাকৰ চিঠিত জয়ন্তিয়া পৰগণাৰ বিষয়ে বিশেষভাবে উল্লেখ কৰি আমাৰ মতামত বিচাৰিছে। সীমাৰ বিষয়ত আসৌৱাহ আৰু ভাৰাগত আসৌৱাহ মই আসৌৱাহ বুলি নধৰোঁ। বৰ্ত্তমানে তাৰ অধিবাসী সকলে আনৰ কথাত ভোল গৈ আন প্ৰদেশলৈ যাব খুজিলেই এবি দি থাকিলে ভবিষ্যত আমাৰ অস্তিত্ব কত ৰব ভাবি চাবলগীয়া কথা। আমাৰ দুৰ্ভাগ্যৰ গুণে মান মৰাণৰ আক্ৰমণত দেশ ধ্বংস হোৱাত ওচৰ চুবুৰীয়াৰ হেচাত পৰি আমাৰ মি দুৰ্দশা তাৰ হাত আমি আজিও সম্পূৰ্ণ এবাৰ পৰা নাই।

গতিকে আমাৰ অতীত বুৰঞ্জী ভেটি কৰি লৈ ক্ৰমে আমাৰ সীমাৰ দাবী বহল কৰিবহে সময়ত লাগিব। এতিয়া এই কাৰণেই মই জয়ন্তিয়া পৰগণা মোয়াত প্ৰতিবাদ কৰোঁ। শ্ৰীহট যোৱা মই সমৰ্থন কৰিলেও এই ফেৰা আপত্তিৰেহে মই সমৰ্থন কৰিম।

শ্ৰীহট বঙ্গভুক্তি হলে আমাৰ দেশ শাসন সংস্কাৰৰে প্ৰতিষ্ঠিত ভাৰতৰ আন উন্নত দেশৰ শাৰীত ববনে নবৰ সেই বিষয়ে সন্দেহ উপস্থিত হৈছে আৰু ভাৰত চৰকাৰে প্ৰকৃতপক্ষে সেই বিষয়ে পোণ পতিয়ে একো কোৱা নাই। এই বিষয়ে গাতকৈ বহুগুণে জ্ঞানী আন আন যোগ্য সভ্য সকলে যথেষ্ট বকমে কৈছে। মোৰ ক্ষুদ্ৰ বুদ্ধিৰে তাকো সমৰ্থন কৰি আশা কৰোঁ যে শাসন সংস্কাৰে বাইজক কিবা প্ৰকৃত সুবিধা দিলে তাক উঠাই নিয়াটোৰ বিষয়ে আমি কল্পনাবেও ভাবিব নোৱাৰো। বিশেষ অন্ততঃ এই বিষয়ত আমাৰ প্ৰজাবন্ধু চৰকাৰো আমাৰে মতাবলম্বী। আমি অলপ পিচ পৰিলেও সিবিলাকৰ গতি আন বিষয়তকৈ বিপৰীত নিশ্চয় হব।

যোৱা কালি আমাৰ মন্ত্ৰী ডাঙ্গৰীয়াই প্ৰস্তাবৰ বিৰুদ্ধে দীঘলীয়া বক্তৃতা দিওঁতে বহুতো আপত্তিৰ ভিতৰত সাম্প্ৰদায়িকতাৰ যি আভাস দিলে সেইটো বৰ অশোভন কথা যেন পাওঁ। বিশেষ তেখেতৰ দৰে লোকে আৰু তেনে দায়িত্বৰে সৈতে মন্ত্ৰীৰ গাদীৰ পৰা এনে ভাব পোষণ কৰাটো কেনে সেইটো আপোনালোকেই ভাবি চাওক। আন প্ৰদেশৰ কথা নকওঁ আমাৰ দেশত হলে মুশলমান সকলৰে সৈতে একে আপোন ভাই ককাইৰ দৰে বাস কৰি আহিছোঁ। এনে সৰু ভাব, এনে সাম্প্ৰদায়িকতা আমাৰ মাজত নাছিল। এনে নোহোৱা নোপজা কথা এটা আমাৰ মাজত উলিয়াই দোৰ ঘেঁৰতৰ ক্ষতি কৰিবৰ আগন্তুক দেখি আমি আচৰিত হৈছোঁ আৰু আমি এই কথাৰ ঘোৰ আপত্তি কৰিছোঁ। আমি দেখি দুখ পাইছোঁ যে তেখেতক দেখি আমাৰ আন আন মুছলমান বন্ধুৱেও সেই বাটকে লৈছে। তোন ভাবকে লৈ কোনো কোনো 'উৰি আহি জুৰি বহা' আমাৰ কোনো জিলা বাসী লোকে আমাৰ গোৱালপাড়া জিলাৰ ভবিষ্যৎ সম্বন্ধেও আমাক সাবধান কৰিব খুজিছে। আদিম অধিবাসীৰ মত সি নিশ্চয় নহয় আৰু হবও নোৱাৰে। কোনো কোনো বন্ধুৱে আকৌ আমাৰ

আদিৰ কাৰ্য্যপদ্ধতিৰ বিষয়ে সাবধান কৰি আমাৰ কেন্দ্ৰৰ প্ৰকৃত মতামত দিয়াত সন্দিহান হৈ যি কথা কৈছে তেখেতে নিজৰ বিষয় কি কব খোজে ?

শেষত আমাৰ চৰকাৰ বাহাদুৰে যোৱা ১৯২৪ চনত গ্ৰহণ কৰা প্ৰস্তাব ভাৰত চৰকাৰলৈ পঠাওঁতে ব্ৰহ্মপুত্ৰ উপত্যকাৰ সভ্য সকলৰ ওপৰত এটা আসোঁৱাহযুক্ত মন্তব্য দিছে। চৰকাৰে কব খোজে আমি হেনো থিয়াল কৰিছে out of jealousy শ্ৰীহট্ট বঙ্গদেশলৈ যোৱাত vote দিছোঁ। মই এই মন্তব্যৰ ধোৰ প্ৰতিবাদ কৰোঁ। প্ৰকৃততে আমি থিয়াল কৰি নহয় প্ৰকৃত বন্ধুহিচাবেহে সিবিলাকক সহায় কৰা ভাবে vote দিছিলোঁ। সিবিলাকৰ মনৰ ভাব, ধন্থকালৰ পৰা চলোৱা আন্দোলনৰ প্ৰতি সম্মান কৰিহে সহায় কৰিছিলোঁ। চৰকাৰ বাহাদুৰে আমাৰ যাবতীয় কানতে হিংসা বা থিয়লা থিয়লি ভাব দেখাটো আচৰিত নহয়। সিবিলাকৰ যাবতীয় কাৰ্য্যপদ্ধতি সমৰ্থন নকৰাই বোধ কৰোঁ কাৰণ হবল।

কোৱা কথাকে দুনাই নকৈ এই দুবাৰ কথাৰে জয়ন্তিয়া পৰগণাৰ বিষয়ে মোৰ মত অটুট ৰাখিও প্ৰস্তাবিত বিষয়ত মই সমৰ্থন কৰোঁ।

SRIJIT BEPIN CHANDRA GHOSE:—Sir, I had a mind to record a silent vote in regard to this resolution but necessity and a sense of duty has prompted me to stand up and speak a few words by way of expressing my views in connection with this resolution. Sir, what I have heard from the hon'ble members who spoke before me in this House yesterday and to-day shows that it is not necessary for me to deal with the subject lucidly and elaborately. Everything in detail has been discussed, and there is nothing left for me which I can bring out that will interest my hon'ble friends in this House. From what I have heard from the hon'ble members for and against this resolution I come to learn that the idea of the transfer of Sylhet to Bengal is not a bad one. Nobody says that our Sylhet brethren are going to do something which is bad for them; they are going to do something good, and no ground has been advanced stating that these people of Sylhet are going to do something which will be ruinous to their interests. They are going to be re-united with a better province where they can expect a better form of Government. Sir, so long Sylhet has been jointly working with us as our brethren. Now if one of our brethren wants to go away from us in order to do something good is it justifiable and is it competent on our part to prevent him, and not to allow him to do that thing which we ourselves consider to be good? Is it wise and reasonable to think that we should go on to do civil war amongst ourselves? It is the time for national advancement and it is not proper to go on fighting amongst ourselves.

Sir, some hon'ble members have given a note of warning to the effect that if we allow our Sylhet friends to go away from Assam then what will be our grounds to prevent people from Cachar and Goalpara from going away from Assam? Although, Sir, in my humble opinion this issue does not arise in the present case still as it has arisen already I should like to say a few words in this connection. Myself being a member from Goalpara would like to say a few words about the existing position of that district. A friend of mine sitting to my left has expressed that from among the 4 members coming from the Goalpara district the majority are in favour of the transfer of Goalpara to Bengal. But, Sir I beg to submit that although one of the members is not present in this House, the hon'ble member guesses his view still although he does not know what would have been his view had he been present to-day here. The absent hon'ble member, I must say, gave his vote in favour of the transfer when this question once came before this House. Moreover, he has shown us a telegram from a particular locality that the people of that locality are anxious to go to Bengal if Sylhet is transferred there. But, Sir, I want to inform my hon'ble friend that the majority of the people of Goalpara are against the idea of the transfer of the district to Bengal. (*Hear! hear!*). The Hon'ble Minister Saiyid Muhammad Saadulla said yesterday that the Raja of Gauripur has already published a pamphlet and circulated it among the members about the idea of the transfer of the District of Goalpara to Bengal, but, Sir, this may be the idea of an insignificant minority, *i.e.*, of the Zamindars of that district only, but I have got certain counter-memorials of which I am in possession and which I can show to the hon'ble members, protesting against this idea of a transfer of the district of Goalpara to Bengal by the Zamindars of that district. (*Hear! hear!*)

Now, Sir, probably the hon'ble members are aware that this movement by the Zamindars of Goalpara is headed by the Raja of Gauripur, who is by birth an Assamese—he is a Barua. Most probably it is at the instigation of his foreign *amlas* who persuaded him to prepare these memorials and to publish this book.....

MAULAVI ABU AL MAZID ZIAOSSHAMS:—I rise to a point of order. Is the member in order in ascribing motives to the Raja of Gauripur who is not present?

SRIJUT KULADHAR CHALIHA:—This is not ascribing a motive.

SRIJUT BEPIN CHANDRA GHOSE:—The Raja of Gauripur I am sure has been guided by these foreign *amlas* of his who have advised him to join in this agitation. These designing people have no interest to remain in Assam—they have got their homes and children in Bengal, therefore they are persuading these influential minority to set up an agitation on foot for the transfer of Goalpara to Bengal. There are memorials in my possession where the whole sub-division of Goalpara—not to speak of the whole sub-division of Goalpara but a fair portion of the sub-division

of Dhubri also—have signed in the memorial voicing their protest against the transfer of Goalpara to Bengal. So, Sir, I can assure the hon'ble members that the mass of the people of Goalpara have not the least idea of going to Bengal; they would rather prefer to remain in Assam. (*Hear! hear!*).

Another point I beg to urge is that there are two public associations in that district—one in Goalpara and the other in Dhubri sub-division. By this I mean the District Association at Dhubri and the Krishak Sammilani at Goalpara. These associations have not sent in a single communication to the Government stating their reasons or expressing their views for the transfer of Goalpara to Bengal, or asking for a transfer of that district; rather they are remaining silent, but when they came to learn that a spurious agitation was going to be made by a negligible factor they at once raised a protest against that agitation.

Now, Sir, some hon'ble members have expressed their apprehension that if the district of Sylhet is transferred then we shall lose our status. Regarding this point I would simply say, Sir, is it likely that our benign Government, when they have once granted us a boon, would be so unkind to take it away? Is it reasonable to believe that the benign British Government would take away that boon provided that we can satisfy them that we have worked the reforms satisfactorily? So, Sir, there are still full four years remaining. Let us work satisfactorily and unitedly so that we may satisfy the British Government that we are competent to get the reforms even without the district of Sylhet.

Sir, it is not our wish and desire to drive our Sylhet brethren. It is not we who put this resolution, but it is the Sylhet members who are so keenly fighting for the transfer. Sir, it is not that by driving the people of Sylhet we would enjoy Government posts, but it is our sense of duty and the keen desire of the people of Sylhet that prompt us to support their just cause. If they are so keen to go let them go. We should not stand in their way.

With these few words I beg to support this resolution.

BANU BASANTA KUMAR DAS:—Sir, I have listened to the debate with great interest and having marked the favourable attitude of my hon'ble friends from the other Valley towards this resolution I had no mind to take part in this debate; but, Sir, the speech of my hon'ble friend Khan Bahadur Alauddin Ahmed Chaudhuri has compelled me to say a few words. I take my stand to refer to what Hon'ble Khan Bahadur has said; but I cannot also ignore the speech of the Hon'ble Maulavi Muhammad Saadulla. I shall, therefore, say something against some of his arguments also. Hon'ble Khan Bahadur Alauddin Ahmed has given his *ipse dixit* with regard to the opinion of the Sylhet people and also as to the comparative material advantages and disadvantages connected with the question of reunion of Sylhet with Bengal. But, Sir, before he could persuade himself to give his *ipse dixit* he should have taken into consideration that in this

House there are also the representatives of the other twelve general constituencies of the district of Sylhet who have got clear mandates to support this resolution. He should have considered that these so-called advantages and disadvantages to which he attaches so much importance were recounted times without number. And that the people of Sylhet came to a decision that it is their fundamental right to be united with the Presidency of Bengal. Sir, I need not mention the numerous telegrams that we have received from the Sylhet people while sitting in this Council Hall urging us to support this resolution. The Hon'ble Khan Bahadur says that the majority of the people of Sylhet do not wish that their district be transferred to Bengal; but, Sir, even the people of that part of the district called Jaintia Parganas, about which the Government of India expressed some doubts in their letter are as keen in their desire to be incorporated with the Presidency of Bengal, as the people of the rest of the district. Since the publication of the letter of the Government of India dated the 24th October 1925 which is responsible for this debate, the people of the Jaintia Parganas have given unequivocal expressions of their desire in a memorial to His Excellency the Governor General and by resolutions adopted by them in numerous meetings held in different parts of those parganas. They have fully proved that they are both geographically and historically associated with the people of Sylhet for a very long time. They have asserted that if the people of the rest of Sylhet have got a fundamental right to be incorporated with the Presidency of Bengal they have also a right,—an inalienable right to remain linked up with the people of Sylhet under one Administration. And, Sir, so far as the rest of Sylhet is concerned, it is too late in the day now to say that the majority of the people do not want incorporation. Hon'ble Babu Brajendra Narayan has shown that the Government of India in their letter have admitted that so far as Sylhet is concerned a good case has been made out.

Then, Sir, coming to the speech of the Hon'ble the Education Minister, what strikes me is this that he is opposing this resolution simply on the ground that the transfer of Sylhet will entail a loss of status of a Governor's province to the rest of Assam. He has tried his utmost to work up that fear in the minds of the other members and his sole argument has been, if I may call it, the argument of population. One statement in the Government of India's letter to the effect that they are unable to state whether they would be able to support the continuance of Assam as a Governor's province after its population has been reduced by some 33 per centum has occupied his whole attention and he has elaborated his argument by reference to the ninth report published in connection with the question of Reforms. But, Sir, in spite of the difficulties enumerated in that report Assam was granted reforms. And it has been very properly said by some members that under the new circumstances that have been brought into existence by the working of the reforms, those difficulties will not

count much. It really appears, Sir, that the argument of population has carried the Hon'ble Education Minister too far and made him lose his self-confidence so much so that he has failed to consider calmly whether there are also other grounds—far weightier grounds which may stimulate us in the hope that really the rest of Assam will not suffer in any way so far as the question of the status is concerned. Sir, in stating the effects of this transfer the Assam Government in their letter to the Government of India dated the 11th August 1925 gave some grounds which should dispel all manner of doubt about the status of the province suffering in any way. Those grounds are to be best found in paragraphs 9 and 10 of that letter. Paragraph 9 is to this effect:—

“In Mr. Botham's letter No. 5585-A.P., dated the 30th October 1924, it was stated that if the area and population of Assam were materially curtailed it was doubtful if it could retain its status as a Governor's province. The present area of the province including the hill districts and the controlled frontier tracts and the Manipur State is 77,500 square miles. At the 1921 census the population of this area, excluding part of the frontier tracts where no census was taken, was 7,990,246. If Sylhet were transferred to Bengal the area of Assam would be reduced to 72,000 square miles of which the population in 1921 was 5,448,905. In area, therefore, Assam without Sylhet would be little smaller than Bengal or Bihar and Orissa, but it must be admitted that the population would be much below that of any other major province in India. It must however be remembered that the population of the Assam Valley is increasing rapidly owing to the influx of cultivators from Mymensingh, who are rapidly bringing large tracts of jungle and waste land into a high state of cultivation. During the last four years nearly 100,000 acres of waste land have been taken up by men of this class in the Assam Valley, and the population must have been increased in this way by more than a quarter of a million souls.”

Then, paragraph 10 is to this effect:—

“Another important factor is that as Sylhet is a deficit district the province of Assam would on the transfer of Sylhet to Bengal be in a much better position financially than it is at present. It would not merely be relieved of the burden of the Sylhet deficit, but it would probably be possible to abolish one of the existing Commissionerships and also to effect other savings in the cost of administration. Financially therefore the maintenance of the existing system of administration would be a lighter burden on the reduced province of Assam than it is on the existing province. In other respects it would be perfectly feasible to maintain Assam as a major province. The Legislative Council would represent a homogeneous area, while the administration of the hill and frontier districts as backward tracts would not be affected. The cadres of the various services would have to be slightly reduced, but the time-scale of pay now generally in force renders this a matter of small consequence, and the attractions of service in Assam would

be increased rather than diminished by the transfer of Sylhet to Bengal."

Now, Sir, it will be clear from paragraph 9 that the Assam Government wanted really to meet the argument of population and area. It points out very clearly that this province possesses vast possibilities and in case Sylhet be transferred to Bengal the rest of Assam has nothing to fear. Paragraph 10 speaks of the sufficiency of revenue for the purpose of maintaining a Governor's province with regard to the rest of Assam and really, Sir, if the rest of the province contain capable area and sufficient revenues, the question of population becomes a matter of secondary importance. Then, Sir, I may refer also to paragraph 11 of this letter. It also goes to show that the Assam Government maintain that the Assam Valley districts possess so peculiar conditions that it will not be possible, nay—it will not be feasible to make over the Assam Valley districts to the Bengal Government and that they must always form a separate unit for administration. Paragraph 11 is to this effect:—

"If, however, it were held that the reduced province of Assam could no longer retain the status of a Governor's province, the only alternatives would be its incorporation in Bengal or its reduction to the status of a Chief Commissionership with presumably a small Legislative Council acting mainly, apart from legislation, in an advisory capacity, and without Ministers. The Governor in Council is strongly opposed to either alternative, which he is confident would be received with intense dissatisfaction by the great majority of the inhabitants of the Assam Valley. The loss of Ministers and the curtailment of the political privileges granted under the Reforms would be keenly resented while as to the other alternative it is hardly necessary to elaborate the objections to doubling the area of the Bengal Presidency and adding to the cares and perplexities of the Bengal Government the charge of a rapidly developing province with an entirely different system of land revenue and the problems entirely unfamiliar to Bengal, involved in the administration of the Hill and Frontier Tracts." Sir, if the Assam Valley districts should always form a separate unit for administration, is it conceivable that the British Parliament having granted reforms to these districts, having placed the Assam Valley people on the path of progress will cry halt and say 'we shall not grant any further instalments of reforms to this province'. So, Sir, I beg to submit that if regard be had to the vast possibilities of the Assam Valley districts and if regard be had to the capacity of the Assam Valley people then there is no ground for entertaining the fear that really the Assam Valley districts will lose their status that has been granted to them.

Then, Sir, while the Hon'ble Education Minister has advanced this argument of population he has not considered another aspect of the question. Of course, Sir, the population of the province will be reduced by 33 per cent. but, Sir, the consequent reduction in the number of electors will not preclude the possibility of

electors only but I represent the non-Muhammadan constituency of the Karimganj sub-division—the biggest constituency of the district—including Mr. Dawson and other European electors of Karimganj (*laughter*). Mr. Dawson's view may be at the utmost the view of the planting constituency. I have authority to say that personally he is much in favour of reunion. I therefore represent him more truly in his capacity as a European elector of Karimganj Non-Muhammadan Constituency when I say that the majority of my electors wish for reunion than he himself does. I do not know how many persons out of 25 lakhs of Sylhet people he consulted. Did he ascertain if they were voters and whether they were under the thumb of interested persons? From newspaper writings and from the proceedings of numerous meetings and conferences it can be definitely ascertained that the majority of Sylhet people, both Hindus and Muhammadans, want to go back to Bengal. Even Mr. Gimson, the Deputy Commissioner of Sylhet, in his letter to the Commissioner wrote:—

“ With very few exceptions the influential and educated Hindus are strongly in favour of the movement of going back to Bengal. It is unnecessary to go into their reasons; their desire is undoubted. Some of the more cautious ones whose ambition is for Government appointments for their sons and relations are hesitant about the wisdom of taking the plunge; but even they desire it on sentimental, if on no other, grounds.”

As regards the Muhammadan population he said that there are sharp divisions of opinion in Sylhet Sadr, the young party being generally in favour of the change and the old party against it (*hear, hear*).

Sir, the Government of Assam deputed the Deputy Commissioner of Sylhet and the Commissioner of the Surma Valley to ascertain the real wishes of Sylhet people. They said that it was very difficult to ascertain the real wishes of the masses. But Mr. Dawson says that he has ascertained the real wishes of the masses. Either the Deputy Commissioner of Sylhet and the Commissioner of the Surma Valley are incompetent officers and deserve to be replaced by a competent man like Mr. Dawson or Mr. Dawson's statement should be taken with 99 per cent. discount. In his capacity as a representative of the Sylhet planters I should like to ask Mr. Dawson one question. The Hon'ble Minister for Education has said that the principle of self-preservation is to be preferred to the new-fangled principle of self-determination. Sir, it is almost a settled fact that sooner or later tea will be and ought to be taxed in Assam to make up the loss of excise revenue. From a letter published in the *Times of Assam* I am reading the following:—

“ That in Assam the tea industry is for the present in by far the best position to bear the greater part of it (taxation) will, I think, be the opinion of any one who regard the subject impartially.”

Did Mr. Dawson draw the attention of his constituency to this aspect of the question? Did the Hon'ble Mr. Dawson ask his

electors whether they desired to bear this additional taxation? Did he explain to them that by going to Bengal they would simply preserve themselves? If not, he has failed in his duty.

Sir, much has been said about sentiments. So far as I remember, in September session of 1924 when His Excellency Sir John Kerr opened this Council he said that the presence of the Bengali members in this Council Chamber reminds him of Bengal. If that be the sentiment of a highly responsible Government Officer and an Englishman who served in Bengal only for a few years is it unfair on our part to request this House to give due weight and consideration to the sentiments of the 25 lakhs of Bengalees who have been separated from their mother province for half century against their wishes and in spite of their protests?

MAULAVI FAIZNUR ALI :—Sir, I have listened very attentively to all the arguments that have been adduced by the previous speakers for and against the question of the transfer of Sylhet.

In discussing this question I think there are a few facts of which we all must take cognizance. We cannot ignore the fact that Sylhet is geographically a part of Bengal, that the people of Sylhet are Bengalees and that they speak the Bengali language. Accordingly it is only natural and legitimate on the part of the people of Sylhet to have a desire to be united with those of Bengal; rather I should have thought it unnatural if there had not been such a desire on their part in these days of national movements. It cannot but be admitted that the majority of the people of Sylhet, rather I should say, an overwhelming majority of the people of Sylhet are in favour of this union. There is no doubt a section of the people in Sylhet who are against this transfer—but when we find in this Council that out of the 13 elected representatives from Sylhet there is only one who is against this transfer, we must conclude that that section must be numerically very small. Under the circumstances it is only just and legitimate for us to help the people of Sylhet in the fulfilment of their desire.

Some of the hon'ble members have dilated about the advantages that the people of Sylhet have been deriving under this Administration and the disadvantages they would have to incur in going over to Bengal. I think, these are points which it is best be left to the people of Sylhet to decide according to their own interests as they know them far better than ourselves.

Much has been said, Sir, about the principle of self-preservation and self-determination. I also with some reservation subscribe to the theory that self-preservation should be taken due note of before the principle of self-determination.

Several hon'ble members of the Council have sounded a note of warning that if Sylhet be transferred to Bengal then there is every apprehension of the status of Assam being lowered. The Hon'ble Maulavi Saiyid Muhammad Saadulla in an elaborate speech full of statistical details has given his reasons for such an apprehension. I must also say that I share in the apprehension

and I do admit that almost all his reasons are incontrovertible. He has quoted from the despatch that the Government of India had sent in the year 1919 regarding Assam. But it should be remembered that political events since 1919 have moved very fast. Assam is no longer that sleepy hollow which it was in the year 1919. Immediately after that year the people of Assam have shaken off their lethargy and indifference and have come forward to take their share and have marched hand in hand with the rest of India in the great movement that has convulsed and transformed the whole of India. Whatever opinion India Government might have had in the year 1919 I believe that opinion has now undergone a change. It has been said that although the Government of India in that despatch had recommended only a limited form of reforms for Assam, it was only on account of some sympathy in some quarters that this full status of a major province has been granted to Assam. I should remind the hon'ble members that this is not a fact. It was on account of a deputation sent from Assam and consisting of Srijut Nobin Chandra Bordoloi—and Srijut Prasanna Kumar Barua—who placed the case of Assam before the Parliamentary Committee that this status was accorded to Assam. The status of a province does not depend upon the numerical strength of its people but upon their political importance and their moral stamina (*hear, hear*). I cannot conceive that in these days when the whole of India is demanding and making such a stupendous effort for self-government, for full responsible government, for *swaraj*, the Government of India shall have the hardihood of even depriving Assam of that crumb of self-government that they had given to her. But if the worst happens, if the Government of India do really propose to take away our status, I believe that our people of Assam will rise up to the occasion and will assert themselves and in that struggle they will be backed by the whole of the rest of India in general and by the people of Sylhet in particular.

The Hon'ble Maulavi Saiyid Muhammad Saadulla made an appeal to the Muhammadans of our Valley.

I do admit that by the transfer of Sylhet the numerical strength of the Muhammadans would be considerably reduced but I repeat, Sir, that the status of a community within a nation does not depend upon its numerical strength but upon its political importance (*hear, hear*). If we Muhammadans of Assam run shoulder to shoulder with our Hindu brethren in our political career towards the attainment of the goal of *Swaraj* I do not think that we shall be left in the lurch (*hear, hear*). But whatever be the effect it is incontrovertible that whether we wish Sylhet to remain with us or not in order to raise the numerical strength of the Muhammadan community it is a fact that the Sylhet Muhammadans are not willing to remain here because I find that out of the seven Sylhet Muhammadans there is only one who is against this transfer of Sylhet. So whether we wish it or not it is a fact that the Sylhet Muhammadans do not like to remain here in order to raise our numerical strength. So we are helpless rather in this condition even if we

did wish to retain our numerical strength with the retention of Sylhet.

I do not wish to say anything further on the subject the question of Goalpara or any other district as I do not think these issues are to be raised at this stage and as such, Sir, I support this resolution which has been moved by my friend Rai Bahadur Sadananda Dowerah.

RAI BAHADUR BEPIN CHANDRA DEB LASKAR (spoke in Bengali):—

সভাপতি মহাশয় !

শ্রীহট্টের বঙ্গভুক্তি সম্বন্ধে আমি ২১টি কথা বলিতেছি। ১৯২৪ ইংরেজির জুলাই মাসে কাউন্সিলের যে অধিবেশন হয় তখন আমি শিলং থাকিতে শ্রীযুক্ত বাবু কামিনী কুমার চন্দ উকিল মহাশয় এবং আরও শ্রীহট্ট বাসী কাছাড় প্রবাসী ২৩ জনা সম্ভ্রান্ত ভদ্রলোক, যাহারা শিলচার হইতে আমাকে আসাম কাউন্সিলে শিলচারের প্রতিনিধি স্বরূপ পাঠাইতে বিশেষ চেষ্টা করিয়াছিলেন তাঁহারা আমাকে বলিয়াছিলেন যে শ্রীযুক্ত ব্রজেন্দ্রনাথ রায় চৌধুরী মহাশয় শ্রীহট্ট এবং কাছাড় বঙ্গভুক্তি হওয়ার জন্য আসাম কাউন্সিলে প্রস্তাব করিবেন আমি যেন তাহার সমর্থন করি। শিলচারের স্থায়ী বাসীন্দ! সম্ভ্রান্ত ব্যক্তি কয়েকজনকে আমি এই বিষয় জিজ্ঞাসা করায় তাঁহারা বলিয়াছিলেন যে আসামে থাকিতেও তাহাদের অসন্মতী নাই তবে শ্রীহট্ট বঙ্গভুক্ত হইলে কাছাড়েরও বঙ্গভুক্ত হওয়া একান্ত কর্তব্য ইহাতে আমি বুঝিয়া ছিলাম যে শ্রীযুক্ত কামিনী কুমার চন্দ উকিল প্রভৃতি মহোদয়গণের মতের সঙ্গে শিলচারবাসীর মতের শেবাংশের মিল আছে অর্থাৎ শ্রীহট্ট বঙ্গভুক্ত হইলে কাছাড়েরও বঙ্গভুক্ত হওয়া দরকার। তাই আমি শ্রীহট্ট ও কাছাড় বঙ্গভুক্তির প্রস্তাবে সমর্থন করিতে শ্রীযুক্ত বাবু কামিনী কুমার চন্দ মহাশয়কে সম্মতি দিয়াছিলাম কিন্তু শিলং পহুঁছিয়া রিজলিউশনের কপি পাইয়া দেখিলাম যে তাহাতে কেবল শ্রীহট্টের বঙ্গভুক্তির প্রস্তাব, কাছাড়ের কথা নাই। সুতরাং আমি এই প্রস্তাবে কোনও পক্ষে ভোট দিব না বলিয়াছিলাম। পরে কাছাড় যোগ করিয়া সংশোধনীয় প্রস্তাব গৃহীত হইলে আমি সংশোধিত প্রস্তাবের পক্ষে ভোট দিয়াছিলাম; এবং প্রস্তাবটী carried হইয়াছিল। এখন আবার কেবল শ্রীহট্টের বঙ্গভুক্তির প্রস্তাব নিয়াই বর্তমান কাউন্সিলের অধিবেশন

স্বতরাং কাছাড় আসামে থাকিয়' শ্রীহট্ট বঙ্গভুক্ত হইলে কাছাড়ের যে কি কি অসুবিধা হইবে তাহার ২১টি আমি বর্ণনা করিতেছি। শ্রীহট্টের সেসন জজ ও সব-জজ কাছাড়ের সেসনের মকদমা ও ফৌজদারী আপিলের ও দেওয়ানী বড় বড় মকদমার প্রথম বিচার এবং আপিল শুনে, শ্রীহট্ট বঙ্গভুক্ত হইলে তাঁহারা আর কাছাড়ে আসিবেন না স্বতরাং কাছাড়ের সেসন ও বড় বড় দেওয়ানী মকদমার প্রথম বিচার ও আপিল শুনার ভার ডিপুটী কমিসনার সাহেবের উপর পড়িবার সম্ভব। ডিপুটী কমিসনার শাসন বিভাগের কর্তৃপক্ষ এবং এই কাজই তাঁহার খুব অধিক তাহার উপর আবার বিচার ভার পড়িলে তিনি বিচার কার্যে তত বিশেষ মনোযোগ দিতে পারিবেন না স্বতরাং বিচার কার্যে ভাল ফল হইবার সম্ভাবনা নাই। শ্রীহট্ট কাছাড়ে শিক্ষা বিভাগে একজন ইনস্পেক্টর। শ্রীহট্ট বঙ্গভুক্ত হইলে কাছাড়ের জন্য একজন ইনস্পেক্টর থাকা সম্ভবপর নহে। শ্রীহট্ট কাছাড়ে এক জনা কমিসনার। শ্রীহট্ট বঙ্গভুক্ত হইলে কাছাড়ের জন্য কমিসনার থাকিবেন না, সম্ভবতঃ কাছাড় গোঁহাটীর কমিশনারের এবং ইনস্পেক্টরের এলাকাভুক্ত হইবে ইহা কাছাড়বাসীর জন্য মঙ্গলজনক নহে। স্বতরাং শ্রীহট্ট এবং কাছাড় কিছুতেই পৃথক থাকিতে পারে না। এখন কাছাড়বাসীর প্রতি শ্রীহট্টের নেতাদের ২১টি ব্যবহারের কথা আপনাদিগকে বলিতেছি।

প্রথমত শ্রীযুক্ত ব্রজেন্দ্রনারায়ন চৌধুরী মহাশয় কেবল শ্রীহট্ট বঙ্গভুক্তি হওয়ার জন্য প্রস্তাব করেন তাহাতে কাছাড়ের কথা ছিলনা সেইজন্য আমি তাঁহার প্রস্তাবের বিরুদ্ধে বলিয়াছিলাম ইহাতে যখন তিনি বুঝিলেন যে কাছাড়ের মেম্বর এই প্রস্তাবের পক্ষে ভোট দিবেন না তখনই কাছাড় যোগ করিয়া সংশোধনীয় প্রস্তাব করার সাব্যস্ত হয় এবং শ্রীযুক্ত রায় সাহেব হরকিশোর চক্রবর্তী সংশোধনীয় প্রস্তাব করেন এবং তাহা গৃহীত হইলে আমিও তাহার পক্ষে ভোট দেই এবং সংশোধনীয় প্রস্তাব carried হয়।

পরে বাঙ্গলা কাউন্সিলে শ্রীযুক্ত অখিলচন্দ্র দত্ত উকিল মহাশয় কেবল শ্রীহট্টের বঙ্গভুক্তির প্রস্তাব করেন। কোনও কাছাড়বাসী তাঁহাকে

কাছাড় বাদ দিবার কারণ জিজ্ঞাসায় তিনি বলিয়াছিলেন যে শ্রীহট্টবাসীর অনুরোধেই তিনি এই প্রস্তাব করিয়াছিলেন এবং শ্রীহট্টের নেতাগণই এই প্রস্তাবের মুসাবিধা করিয়া দিয়াছিলেন সুতরাং কাছাড় বাদ দেওয়ার জন্য তিনি দোষী নহেন।

লেজিসলেটীভ এসেমব্লিতে শ্রীহট্ট কাছাড় বঙ্গভুক্তির প্রস্তাব হয় পরে শ্রীযুক্ত কামিনী কুমার চন্দ মহাশয় কাছাড় বাদ দিয়া কেবল শ্রীহট্টের জন্য প্রস্তাব করিয়াছেন। সুতরাং দেখা যাইতেছে যে শ্রীহট্টের নেতাগণ বার বার কাছাড়কে বাদ দিতেছেন তবে আসাম কাউন্সিলের সংশোধনীয় প্রস্তাব গৃহীত না হইলে আসাম কাউন্সিলে রিজলিউশন carry করা কঠিন হইত বলিয়া ইহা গ্রহণ করা হইয়াছিল বাঙ্গালা কাউন্সিল বা লেজিসলেটীভ এসেমব্লিতে কাছাড়ের কেহ নাই বলিয়া কাছাড়ের কথা এই দুই কাউন্সিলেই ছাড়িয়া দেওয়া হইয়াছে। শ্রীযুক্ত বাবু কামিনী কুমার চন্দ এসেমব্লিতে কাছাড়েরও প্রতিনিধি হইলেও শ্রীহট্টবাসী। কাছাড় সঙ্গে রাখিলে শ্রীহট্টও বঙ্গভুক্ত হইতে পারিবে না ভাবিয়া তিনি কাছাড় বাদ দিয়াছেন।

এখন শ্রীহট্টের নেতাগণ বলিতেছেন যে এখন শ্রীহট্ট বঙ্গভুক্ত হইলে পরে তাহারা কাছাড়কেও টানিয়া নিবেন কিন্তু তাহাদের পূর্বোক্ত ব্যবহারে কাছাড়বাসী তাহাদের এই আশ্বাস বাণীতে ভুলিতে নারাজ এবং শিলচার এলাকার স্থায়ী বাসিন্দা সকলেই একা শ্রীহট্টের বঙ্গভুক্তির প্রতিবাদ করিতে আমাকে দৃঢ়ভাবে বলিয়া দিয়াছেন তাই আমি শ্রীহট্টের বঙ্গভুক্তির প্রতিবাদ করিতেছি। শ্রীহট্টের নেতাদের অনুরোধে শ্রীহট্টের বঙ্গভুক্তির প্রস্তাব সমর্জন করিলে আমি শিলচার অধিবাসীর নিকট বিশ্বাসঘাতক হইব। শ্রীহট্টের নেতাগণ কাছাড়ের প্রতি কুটীল ব্যবহার করিয়া কাছাড়ের প্রতিনিধিগণ হইতে সাহায্য পাওয়ার আশা করাটা বোধ হয় সম্ভব নহে। কাছাড় সর্বদাই সকল কার্যে শ্রীহট্টের অনুগত হইয়া চলিয়াছে তাই শ্রীহট্টের নেতাদের কুটীল ব্যবহারে আজ কাছাড় মর্ম্মাহত। শ্রীহট্টবাসী নেতাগণ পূর্বে শ্রীহট্টকে বঙ্গভুক্ত করিয়া পরে কাছাড়কে টানিয়া নিবার আশ্বাস দিতেছেন কিন্তু কয়েকদিন অপেক্ষা করিয়া কাছাড়কে সঙ্গে

নিয়া বঙ্গভুক্তির চেষ্টা না করায় কাছাড়বাসী শ্রীহট্টের এই আশ্বাস বাণীতে বিশ্বাস করিতে পারিতেছে না। সেই জন্য আমি শ্রীহট্টের বঙ্গভুক্তিতে শিলচরের পক্ষে প্রতিবাদ করিতেছি। আমি যতদূর জানি কাছাড়ের কোনও মেশ্বরই এই প্রস্তাবের সমর্থন করিবেন না। শ্রীহট্ট বঙ্গভুক্ত হইলে অবশিষ্ট আসামে গবর্ণরের পদ থাকিবে বলিয়া সম্ভব নাই সুতরাং কাছাড় যে স্ববিধাটুকু চাহিয়াছিল তাহাও হারাইবে। শ্রীহট্টের বঙ্গভুক্তিতে ইহাই কাছাড়ের বিশেষ আপত্তি।

REV. J. J. M. NICHOLS-ROY :—Sir, I consider this to be the most important resolution in the history of Assam since it was constituted a Chief Commissionership 50 years ago. I think that it is very important that we should consider this matter and seriously consider it before we give our final decision and go to any Lobby that we may decide to go. I am not convinced at all by the arguments which my hon'ble friends have advanced regarding the status of Assam. I am opposed to the resolution on two grounds, first I believe it is detrimental to the province of Assam and secondly it is detrimental to the formation of an Indian nation. Regarding the status of Assam I need not say many things, but only a few things I want the hon'ble members, Sir, to notice. According to the ninth Despatch of 1919, regarding Assam and the backward tracts the framers of the Report found it very difficult to include Assam among the major provinces. Assam stands last in the list of major provinces. It was calculated at that time that Assam had about 60 lakhs of population. It is very doubtful whether Assam would have been taken as one of the major provinces had the population been lower. Babu Basanta Kumar Das already said that the electorate would be reduced to 148,000 when Sylhet has been transferred from Assam. I want to turn the attention of hon'ble members to the Southborough Report. In this report you will find that Central Provinces, the seventh of the eight provinces, which is a little bit bigger than Assam has 159,500 electors (*hear, hear*), while Assam will have without Sylhet only 148,000; and we have no guarantee that 159,000 may not be taken as the minimum number of voters for a Governor's province. We have no guarantee in that way I say. And moreover I want to read from this Despatch the attitude of the framers of the Report at the time when they were considering the question of Assam. That will be found in the 4th paragraph. They wanted to treat Assam differently from the other major provinces. They did not want to include Assam in their list and I understand it was only through the special Commission that was sent to England as Maulavi Faiznūr Ali said that Assam has been included in the list of major provinces. Had it not been for that, the people who had the authority to give the Reforms would have not given Assam the Reforms at all. The difficulty in their minds was expressed:

in these words: "The justification for treating Assam in a special manner must be sought not so much in its area which as we have mentioned is almost equal to that of Bengal as in the very large proportion of this area which lies in the hills and the consequent smallness of the area with its correspondingly small population and revenues which can be compared in the matter of general progress and advancement with the rural tracts of other provinces." They found it very difficult to include Assam among the major provinces. Babu Basanta Kumar Das read the communication of the Government of Assam to the Government of India. The Government of Assam tried to show the Government of India that Assam should remain as a Governor's province even after Sylhet has been transferred. The very fact that they produced these arguments shows that they were afraid that the status of Assam would be endangered otherwise they would not have written as they wrote. There would have been no need of the special arguments advanced had there been no fear in regard to the status of the province. Last year when this resolution was passed in the House there was no mention of status at all. It is the Government of Assam who took the step to write to the Government of India that Sylhet could be transferred on the condition that the status of Assam should not be affected. Had it not been for the foresight of the Government of Assam we would have been in difficulty now. And, Sir, in spite of the correspondence of the Government of Assam and the proceedings of the session of the Council of last year regarding this question, the Government of India did not decide the question but referred it back to the Council to reconsider the matter in view of the correspondence which they have sent. It seems clear, Sir, that the Government of India knew that the status of Assam is endangered, and therefore they wanted to give the Council another chance—a second chance—to reconsider the matter. The Government of India in their letter of 24th October 1925 distinctly said these words:—"The Government of Assam apparently conclude that it is only if Assam without Sylhet is to retain its present political status that they would not oppose the transfer of the district. The Government of India regret that they are unable to accept the view that this may be imposed as a condition of transfer. They consider that the future status of Assam is a separate question which must be left an open matter to be decided on its merits after any transfer is made. The Government of India observe, however, that any change in the status of Assam would probably involve an amendment of the Government of India Act"—(which Act may be amended at any time after this resolution has been passed in this House) "and therefore for some time at any rate Assam would remain a Governor's province. They are unable to state now whether they would be able to support the continuance of Assam as a Governor's province after its population has been reduced by some 33 per centum". In these words they have made it very clear to the Council that the status of Assam is in danger.

BABU BRAJENDRA NARAYAN CHAUDHURI:—Just now? Immediately after the transfer?

REV. J. J. M. NICHOLS-ROY :—May I proceed, Sir?

THE HON'BLE THE PRESIDENT :—Yes, go on.

REV. J. J. M. NICHOLS-ROY :—The hon'ble member knows. Sir, that the status may be in danger at any time. As soon as this resolution is passed in this House there may be an amendment of the Government of India Act and, who knows, when this status will be lost. It is God only who can tell; nobody knows.

BABU KRISHNA SUNDAR DAM :— God does not delve in politics.

THE HON'BLE MAULAVI SAIYID MUHAMMAD SAADULLA :—Sir, will you stop this running commentary?

THE HON'BLE THE PRESIDENT :—The hon'ble member need not take notice of the remarks.

REV. J. J. M. NICHOLS-ROY :—Politics without God is rotten politics. Now, Sir, returning to the resolution, it is very clear that the resolution which is before the House makes no condition at all, but the hon'ble mover of the resolution himself in his speech yesterday committed himself when he said these words which I took down when he spoke—"We would rather oppose Sylhet going to Bengal than lose the status of Assam." He wanted to make it conditional and at the same time he wanted to make no conditions at all. This is a very ambiguous position, and I was very much surprised. In reality there is no surprise about it because the mentality of the Assamese Councillors is that they are very sanguine that the status of Assam will remain as it is, but if they knew that the status of Assam would be affected they would oppose the transfer of Sylhet. Then let the Government of India understand in that case that this resolution should not be taken simply by the number of the votes but by the sentiment of the House that they do not want to let Sylhet go unless Assam retains the status of a Governor's province. That is a fact. Whatever we may say now in regard to the status we are only theorising. This Government or the Government of India cannot guarantee that the status will remain as it is. Therefore when we are asked to vote for the transfer of Sylhet we are asked to take a leap in the dark, we are asked to live in hopes only and not to build on facts. I do not want to live in hopes only. I do not want to leap in the dark, but I want to build on facts. We may clamour afterwards, we may cry, we may fight, but it is better to keep what we have than to fight afterwards when we have lost it. That is what I consider to be the only reasonable position which the members for the Assam Valley who are going to vote ought to take.

Now, Sir, another point I want to speak about is regarding the effect which this resolution will have on India. I am against the very basis on which this resolution has been founded. It is based on language and race. I consider that the idea of demarcating India according to races and languages is detrimental to the formation of an Indian nation. (*Hear! Hear!*). So, Sir, I was very much surprised when last year Babu Brajendra Narayan Chaudhuri,

one of our leading politicians, a great patriot, a well known figure in Assam.....

SRIJUT KULADHAR CHALIHA:—Sir, is that not personal?

REV. J. J. M. NICHOLS-ROY:—No, I am speaking facts. He is a well known figure in Assam. In every paper we read about Brajendra Babu.

SRIJUT KULADHAR CHALIHA:— May I have your ruling, Sir, as to whether it is personal or not?

THE HON'BLE THE PRESIDENT:— I do not think he has said anything, or used any epithet which is objectionable. If he goes any further I will stop him.

REV. J. J. M. NICHOLS-ROY:— I am saying it sincerely, Sir.

BAWU BASANTA KUMAR DAS:—But the tone is a tone of banter.

REV. J. J. M. NICHOLS-ROY:—In his speech in the last Council he spoke about “Bengali nationalism” and he referred to the nationalism of Europe which brought a curse to humanity, to the world, landing it in the last, never-to-be-forgotten war. He referred to the case of Alsace-Lorraine. He said—“Our sentiments of Bengali nationalism in the provincial sphere are the same as those of Alsace-Lorraine, only one degree removed in the sphere of the sub-state or province.” Sir, my heart sinks within me when I hear some of our leading politicians like Babu Brajendra Narayan Chaudhuri speak of Bengali nationalism and advocate such provincial nationalism at the expense of the general interest of India—at the expense of an Indian nation. Which way shall we look? Here are our future rulers—they are going to rule India—some of these friends are—and they are going to advocate Bengali nationalism. Assamese nationalism, Uriya nationalism, Madrasi nationalism, and what is going to happen to our Indian nation? Shall we not repeat the same things which Europe has gone through by fighting against one another? We shall add to the communal differences these racial and linguistic differences. These are the things which look very gloomy to me. I consider that the provincial nationalism is the outcome of perverted human nature. Where are patriots who will rise above provincial nationalism and sink their petty differences, their national, their racial, their linguistic differences, their petty sentiments, to the interest of India as a whole and create an atmosphere for the proper formation of an Indian nation? After the war, Sir, there was quite a movement in India for the formation of an Indian nation—as one great scholar said:—“India was in the throes of national birth. People began to forget whether they were Bengalis, Madrassis, Assamese or Uriyas. There was a hope that an Indian nation would be formed—yes, there was such a hope in the minds of many people who looked from outside; but, Sir, if we begin to descend and speak about provincial nationalism and continue in that way, where shall we land? I say, Sir, therefore that I am opposed to this resolution because it will create a precedent for the demarcation of India

according to race and language, which I believe to be detrimental to the welfare of India as a whole. The effect that will come to the country and the Indian legislatures when India has been divided according to race and language that is according to the basis of this resolution is foreseen by many. In the Montagu-Chelmsford Report we find on page 159, paragraph 246, these words:—

‘ It is also a strong argument in favour of linguistic or racial units of government that by making it possible to conduct the business of legislation in the vernacular, they would contribute to draw into the arena of public affairs men who are not acquainted with English ’.

This is the outcome if India is divided according to the basis which forms the foundation for this resolution. Well, then what will be the consequence? The consequence will be that provinces will become watertight. They will be more and more separated from one another. Imagine all the Indian legislatures carrying on their business in their own vernaculars with many councillors who know little of the well advanced portions of the world! What will the consequence be? Assamese will hardly know the Bengalis, Bengalis will hardly know the Madrassis and the Madrassis will hardly know the Uriyas and so on. Then instead of going forward in politics we shall go backward, instead of forming an Indian nation we shall form warring nations. This will be the consequence, and I for one am against this kind of demarcation of the country. Therefore I am opposed to this resolution which I consider to be very detrimental to the people of India.

Sir, I want to refer to another matter. It was a great surprise to me when some of my friends from Assam Valley spoke of a homogenous population. I could not understand in reality what they meant by homogenous population. After Sylhet has been transferred Assam will not be left with a homogenous population. There will still be Cachar unless Cachar too goes away. There are the Bengalis here, the Khasis, the Assamese, there are different classes of people. Now, what will become of the twelve lakhs of Bengalis in Assam? I happened to read this morning a few words from the speech of my hon’ble friend Sriyut Nilmoni Phukan. Last year he spoke against this resolution and he spoke these words:—

‘ Perhaps you know, Sir, that at this moment thousands of people from Mymensingh have already swamped the districts of Nowgong and Gaubati and who knows some day these people will not come up on a linguistic basis and say that this portion should be carved out of Assam and be added to Bengal or thrown into the Bay of Bengal.’

He realised then that if the principle of self-determination and the language basis be the rules for our guidance the consequence would be detrimental to Assam. Who will prevent the people of Cachar from agitating again and again to go to Bengal. We hear in this Council that they are going to agitate; and our hon’ble Sylhet friends who are going away from Assam are going to agitate for

Cachar. The Cachar members have already said that they are not going to rest; and some of the members of Goalpara already have said that they are not going to rest either. They are going to agitate the same thing. And who knows as my hon'ble friend Mr. Phukan said that some of the Mymensingh people who are now in Assam will not want also to go away from Assam and carve some parts of Assam out and take it to Bengal. These are the things that we shall have to meet in the future. If we once commit ourselves to this principle of self-determination and language basis I am afraid we shall not see the end. Our difficulties will grow.

Now, Sir, there is also another point. I do not understand why the Government of Assam should favour this proposal. I do not know what the Assam Government's attitude is but it seems to me that the only reasonable position which the Assam Government should take is to oppose the transfer of Sylhet. The Government of India has plainly said that they should answer practically 'yes' or 'no'. They do not want any conditions. What is the use of putting in any more conditions. It will only mean that they do not want Sylhet to go. Sir, instead of going in a round-about way it would be reasonable to say really "We do not want Sylhet to go since we do not know what will become of Assam." That will be the most reasonable position, it appears to me that the Government should take, and we hope that the Government members who are the trustees of the welfare of the people of Assam and of the future status of Assam, would not risk the status of the province because no one in Assam seems to want to risk the status of the Governor's province. I appeal to my hon'ble friends, the Planters who are members of this Council to help us in this matter, that they may not throw us into difficulty. I hope they will vote against this transfer because it will mean the risking of the status of Assam. Though hopes have been held out to us yet we are still unconvinced that our hopes will be realised if Sylhet is transferred to Bengal. We are building only on hope. Whether our hopes will be realised or not nobody knows for certain. He who is a wise man, will not jump, will not take a leap in the dark, but will stand on solid facts.

Another point, Sir, which I forgot to mention is regarding the condition of the franchise. The conditions of franchise in Assam have been greatly reduced in comparison with the franchise conditions in the Central Provinces and other major provinces. I want to point that out here. Regarding the qualifications of the electors in the Central Provinces it is said, in urban areas that one of the qualifications is that a person should own or hire a house or building of the annual rental value of not less than Rs. 36. But in Assam, in the urban areas in respect of municipal or cantonment rates aggregating not less than Rs. 3. In the case of the Nowgong Municipality it is 'not less than Rs. 2' and in the case of the Sylhet Municipality it is 'not less than Re. 1-8'. So, the condition of franchise is lower than that of the Central Provinces. In the rural areas also it is the same. It is written here in the rules that every person in the Central Provinces and Berar will

be entered in the electoral roll of the constituency who has a place of residence in the area and owns land paying cess or assessable to land revenue of not less than Rs. 100 per annum. But here in Assam the condition of franchise is very low. It is written that every person will be entered in the electoral roll of the constituency who has a place of residence in the area and in the districts of Sylhet, Cachar and Goalpara pays a chaukidari tax under the Bengal Act VI of 1870 of not less than Re. 1 per annum or in the remainder of the province owns land assessed or assessable to a land revenue of not less than Rs. 15 or pays a local rate of not less than Re. 1. That is in Assam. Now, Sir, this shows that Assam had to be treated in a special manner in order to get it included within the list of the major provinces. There was a *special consideration* for Assam. We have got the Reforms now simply because of that special treatment by the authorities who have the power to give us the Reforms, but that is Assam with Sylhet. Now if Sylhet is taken away who knows whether the same special treatment will be given to Assam or not.

THE HON'BLE THE PRESIDENT:—I think the hon'ble member will finish now. He has taken already a long time.

REV. J. J. M. NICHOLS-ROY:—Just a minute, Sir. I say, Sir, that those who will vote for this resolution are leaping in the dark. Therefore I oppose this resolution. .

SRIJIT KULADHAR CHALIHA:—Sir, the subject has been so well thrashed out that it hardly needs any more speech on the subject. But yet, after hearing the Rev. Nichols-Roy who has been here for a long time and has given a peroration about our duties I think I shall be failing in my duty if I fail to reply to his objections. At the same time we cannot forget that the objections and other reasons advanced by the Government of Assam cannot be allowed to go unrefuted. First, I shall take the reasons which they said actuated us in voting with the Surma Valley members—out of jealousy we wanted to get rid of the Sylhet district. I should like to say that so long as we were jealous, so long as we were envious of them they were not in a position to bring up this resolution before the House. But after the non-co-operation movement, after the awakening of the national spirit a new idea, a higher ideal and a better ideal has come amongst us and for that reason we have come to help them, because we know it will be unjust on our part to refuse their union with their countrymen in Bengal. So we have voted—not out of jealousy as they put it, but out of our goodwill. I think the Assam Government has not enhanced its reputation by putting us down to that feeling, though I should give them credit that they have correctly interpreted the feelings of the people about the status and other things. I should like to thank His Excellency and the Members of Government in interpreting the situation, that there would be intense agitation, may I say probably more bitter than that of 1921 if the status is lowered. We should give them credit for correctly gauging that feeling. We find also that there are certain other remarks for which also they must get

credit and that is on the question of economy. I think we need hardly fear—I was the first person to point out that Sylhet is a deficit district that our economic position will be better when Sylhet is transferred to Bengal. I knew the members of the Assam Valley, the electors in the Assam Valley will ask us what reason we had to vote for the resolution. We told them that economically if we allow Sylhet to go to Bengal and join their countrymen there we would gain immensely. We shall be able to develop a homogenous community, we will be able to develop our own characteristic traditions and institutions.

We pointed out to the people clearly that we have been spending a portion of our funds which otherwise would have been available for the Assam Proper for Sylhet. This sum will be available for our purpose. We have stated exactly what we feel and we are stating it now too that if Sylhet goes to Bengal, it will be for the interest of ourselves that we should not stand in their way.

There are other reasons which were advanced against the transfer by the Hon'ble Maulavi Saadulla. They have been amply refuted by the Hon'ble Maulavi Faiznur Ali and I need not refute them again. But there is one thing that I should like to say. He thinks that the number of Muhammadans will be very small and as such probably they will be hit hard by the decrease in their numerical strength. Have we ever, I say, failed to respect the minority, have we failed to respect the claims of the minorities, the Anglo-Indians, the Europeans who are still fewer in number? It will be our bounden duty to see that no minority suffer by the influence of the majority. I think we will be failing in our duty, in our responsibility, if we do not help them. Our ideas are growing. We are conscious of our responsibility and we feel that we will never fail to respect the smallest minority, not to speak of the Muhammadans, not to speak of the Anglo-Indians, but also of the Europeans who as I have said, are fewer in number. We will not be performing our duty if we forget their rights and I can assure the Hon'ble Maulavi Saadulla—and I believe my feelings are shared by all the members here that the minorities will not be ever interfered with. Our Maulavi Sahib is harping on a communal claim while men like Kemel Pasha is coming out with the national feeling. Let us be one nation, let us forget *chapkans* and *patjamas*, let us if necessary wear all frock-coats and represent as one people. And I think the day is not far when Maulavi Saadulla will be leading such a movement here.

A voice:—But you will oppose him.

SRIJUT KULADHAR CHALHA:—I shall be his humble follower.

THE HON'BLE MAULVI SAIYID MUHAMMAD SAADULLA:—Thank you very much.

SRIJUT KULADHAR CHALHA:—Then as regards Revd. Mr. Nichols-Roy's contention about language question—one thing which has troubled him—probably he requires an answer. In the Con-

gress platform which I hope and trust Revd. Mr. Nichols-Roy will join some day—if he goes there he will find that the people there speak, Hindi they speak Marhatti, they speak Telugu and many other languages but it has not prevented them from developing a higher national idea. I think we are not jealous of each other now-a-days. We are not jealous of the Bengalis in spite of their advance, for we know that we will be able to develop ourselves, we think that we shall be able to go ahead even of Bengal. I am sure that my Assamese friends are fully convinced of that. I feel for Rev. Mr. Nichols-Roy for he belongs to a small community. Yet I would point out to him that we in this Council never went against the Khasi people. We have a better national ideal. We have been able to subdue feelings of animosity on the score of language. We will be able to assimilate the Khasis as Assamese. In fact are we different in race? I think the Khasis are Assamese and the Assamese are Khasis and we will assimilate them sooner or later. All the same what is there to prevent him from speaking Assamese. He is speaking a foreign language and still he is mixing with us freely.

Of course there is a different ideal before the League of Nations. But it is probably a goal which not in the near future the League of Nations can attain. This international ideal is not to be achieved in a generation or in the next generation, it may take another two hundred years. So international development is a thing which is very remote. Do you think that the Irish people, because they have separated from the English are going to be less prosperous, I think this requires very little arguments. These things are thrashed threadbare in journals and other papers.

Now as regards the status. The Government has quite correctly represented it and I think there is not the least probability that the Government of India will be unstatesmanlike as to lower the status of the province and to face an agitation which no Government will ever desire. I don't think the British Parliament will create such a dangerous precedent by putting us back. I know the mentality of the Assamese members; I need not assure them that the British Parliament will not tolerate any such idea of lowering the status of the province. I have no fear on the score of the status. The Government itself, in the interest of the Civil Service, will try their level best to keep it as a Governor's province. I plainly see it that it is to their interest to keep it for their own sake, and the Government will be failing in their duty to the great service if they do not retain so many jobs for the Civil Service by keeping the province intact. I do not think our Civil Services are so very self-sacrificing as to forego their rights easily.

As regards the status there is only one thing which should be the criterion. The criterion is how many people are interested in the constitution. As has been pointed out our electors will be about as much in numbers as those of the Central Provinces—148,000—I think it will be more. With the women votes I think it will be little more than that. We should see how many people really take

interest in the constitution as compared with any other small province in India. So I think the Government of Assam can go forward to the Government of India that our number will not be less. So, I think, even on that score we need not fear. The criterion for keeping up a constitution is to see to the number of people taking interest in it. The Central Provinces may have a large number of people but the number taking interest in the constitution is much less. We do not see why our Government will not be able to present our case properly, that we will have as much electors as any other small province in India.

I think with these remarks I can commend this resolution to the acceptance of the House and I trust that the members of the Assam Valley will be almost unanimous and that they will vote for the resolution because it will be for the good of the people of Sylhet as well as for the good of the people of the Assam Valley.

SHRIM SADANANDA DOWERALL :—The objections that have been raised against my resolution have been amply replied to by many of the hon'ble members. So there is not much for me to reply. All the same I cannot help that I have to protest against certain remarks coming from certain quarters. My friend, Maulavi Rashid Ali Laskar did give expression in the depth of disappointment that this province will be a Planters' province. Sir, everybody in this House must realise that tea planters have as much interest in this province as anybody else and in spite of criticisms levelled against them they have co-operated with us in all matters. The remark was not justified at all and I must protest against it.

Sir, the most important objections that have been raised comes from the Hon'ble Maulavi Saadulla. It relates to numbers. My friend seems to be obsessed with the question of number alone. I have tried my best to realise what is that makes numbers so important in this question. The only significance of numbers so far as I can see is whether the population will be able to bear the burden of taxation to support a Governor's province. If Sylhet is taken away, will the rest of the province be able to bear it? I think they will be able to bear it better. What is more, if Sylhet goes there, the burden will be lighter? At least one Commissioner will be abolished with the office. My friend Maulavi Faiznur Ali rightly emphasised that it was not much the question of number—as it is the question of the stamina of the people that is to be taken into account. It has been said that in the beginning it was found difficult to concede to the province of Assam the status of a Governor's province. We must not forget that the then Chief Commissioner of Assam was opposed to the status of a Governor's province being given to Assam. What we find now? In spite of the fears, in spite of the apprehensions raised by our own countrymen the Governor in Council have consistently recommended and expressed that Assam can be run as a Governor's province. And my friend Rev. Mr. Nichols-Roy has correctly said that the members of the Assam Valley in spite of the fears and alarms raised by our own countrymen the Governor in Council has recommended strongly

that even if Sylhet were transferred Assam's status as a Governor's province should not be impaired. And my friend Rev. Nichols-Roy has correctly said that the members of the Assam Valley are voting for this resolution because they are confident that the status of the province cannot be interfered with. We feel ourselves confident, perfectly sanguine, that the British Parliament will never think of taking back from us after six years of successful and loyal co-operation the status that it has conceded to us. It is simply unthinkable. It is true that we have no representative in the Government of India but we still have better faith in British statesmanship than some of our own countrymen. If I had any doubts in my mind as to the status of the province I would never have voted for the transfer of Sylhet. It is the self-determination not only of Sylhet but of the province as a whole to think that it is better for Sylhet and better for Assam that Sylhet should go to Bengal. As I have already said if Sylhet goes to Bengal we will have a policy to pursue, we will have progress.

Some members have been trying to cloud the issues by raising the question of Cachar and Goalpara. These issues are not before the House now and when they come we will know how to deal with them. The question now is only as it stands before the House. I appeal to all the members that in the interests of the province as a whole they should vote for the motion. I also venture to appeal to you, Sir, that before you put this resolution to the vote you will see your way to putting the whole resolution as a whole together instead of separating the issues a procedure which would not meet with the wishes of the majority of the members present.

HON'BLE MR. A. W. BOTHAM:—Sir, there is only one thing which I wish to say in closing this discussion. I do not know which way the decision of this Council will go. But whatever the decision is, it will represent the vote of the majority of the non-official members of this Council, since the official members will not vote on the first part of the resolution. If the decision is in favour of a recommendation for the transfer of Sylhet and if effect is given to that recommendation, those of us who are left in Assam will, I have no doubt, work together wholeheartedly for the advancement of our reduced province, and will do our best to show that small though we may be in population we are worthy of retaining our status amongst the provinces of India (*hear, hear*). On the other hand if the decision is opposed to the transfer I trust that it will not be too optimistic to hope that the decision of the majority of the non-official members of this Council will be accepted as final and that the whole province will settle down to work together without the disturbing factor of any further movement for transfer or partition.

THE HON'BLE THE PRESIDENT:—As I informed hon'ble members yesterday it was with the greatest consideration that we admitted the two parts as one resolution and the acceptance of the amendment has further broadened the gulf between the two issues. In this case whether I am to put both parts together before the House or not would largely depend not so much on me, but on the

form of the resolution. I would have been very happy to have acceded to the request of the hon'ble members to place the two parts together if they had not been absolutely separate. So I desire to place the two parts of this resolution separately as two resolutions.

The first question now before the House is:

This Council recommends to the Governor in Council that the district of Sylhet be transferred to Bengal.

The question was put and a division taken with the following result:—

AYES—26.

1. The Hon'ble Rai Bahadur Promode Chandra Dutta.
2. Rai Bahadur Amarnath Ray.
3. Rai Bahadur Siva Prosad Barua.
4. Srijut Nilmoni Phukan.
5. Mr. D. S. Withers.
6. Babu Basanta Kumar Das.
7. Babu Brajendra Narayan Chaudhuri.
8. Babu Gopendrolal Das Chaudhuri.
9. Babu Krishna Sundar Dam.
10. Babu Kshirod Chandra Deb.
11. Srijut Bepin Chandra Ghose.
12. Srijut Kamakhyaram Baruah.
13. Srijut Mahadeva Sarma.
14. Srijut Padmanabh Sarma.
15. Mr. Taraprasad Chaliha.
16. Srijut Robini Kanta Hati Barua.
17. Srijut Kuladhar Chaliha.
18. Srijut Sadananda Dowerah.
19. Srijut Sarveswar Barua.
20. Maulavi Dewan Abdul Rahim Chaudhuri.
21. Maulavi Abdul Hannan Chaudhuri.
22. Maulavi Muhammad Mudabbir Hussain Chaudhuri.
23. Maulavi Faiznur Ali.
24. Mr. W. K. Warren.
25. Lieut-Colonel H. C. Garbett.
26. Mr. M. H. Clarke.

NOES—12.

1. The Hon'ble Maulavi Saiyid Muhammad Saadulla.
2. Maulavi Dewan Muhammad Wasil Chaudhury.
3. Rev. J. C. Evans.
4. Khan Bahadur Abul Fazl Ahmad.
5. Rev. J. J. M. Nichols-Roy.
6. Rai Bahadur Bipin Chandra Deb Laskar.
7. Rai Sahib Har Kishore Chakrabatti.
8. Maulavi Rashid Ali Laskar.
9. Khan Bahadur Allauddin Ahmed Chaudhury.
10. Maulavi Mafzuddin Ahmed.
11. Mr. J. C. Dawson.
12. Mr. H. B. Buchanan.

The Ayes being 26 and the Noes 12 the Resolution was carried.

THE HON'BLE THE PRESIDENT:—"The second question before the House is this:—

"This Council recommends to the Governor in Council that while it is not the intention of the Council to prejudice the transfer of Sylhet by any consideration as to the status of the rest of the province, Assam should not by reason of the transfer be deprived of any of the political privileges which it at present enjoys in common with other Governors' provinces or which may hereafter be extended to other Governors' provinces."

The motion was carried *nem con.*

THE HON'BLE THE PRESIDENT:—"As the House has carried these two resolutions the rest of the resolutions drop out."

THE HON'BLE THE PRESIDENT:—This is the order of His Excellency the Governor:—

In exercise of the powers conferred on him by Section 72B of the Government of India Act, His Excellency the Governor is pleased to declare that at the conclusion of the meeting of the 7th January 1926 the Assam Legislative Council do stand prorogued.

B. N. RAU,

Secretary to the Legislative Council, Assam.

SHILLONG:

The 9th January 1926.

APPENDIX A.

Statement showing Comptroller's figures and explanatory notes on the expenditure of Sylhet District for 1924-25.

SYLHET DISTRICT.

Receipts.		Expenditure.	
Major heads.	Amount in thousand of rupees.	Major heads.	Amount in thousand of rupees.
1	2	3	4
	Rs.		Rs.
II.—Taxes in income . .	52(a)	5.—Land Revenue . .	2,13
V.—Land Revenue . . .	12,23	6.—Excise . . .	19
VI.—Excise . . .	4,58	7.—Stamps . . .	26
Carried over . .	17,33	Carried over . .	2,58

SYLHET DISTRICT—*concl'd.*

Receipts.		Expenditure.	
Major heads.	Amount in thousand of rupees.	Major heads.	Amount in thousand of rupees.
1	2	3	4
	Rs.		Rs.
Carried over .	17,33	Carried over .	2,58
VII.—Stamps . . .	10,42(<i>f</i>)	8.—Forests . . .	64
VIII.—Forest . . .	1,89	9.—Registration . . .	83
IX.—Registration .	1,28	22.—General Administration.	3,48
XVI.—Interest . . .	15		
XVII.—Administration of Justice.	68	24.—Administration of Justice.	4,38(<i>g</i>)
XVIII.—Jails and Convict Settlements.	39	25.—Jails and Convict Settlements.	1,19
XIX.—Police . . .	(<i>b</i>)	26.—Police . . .	5,12
XXI.—Education . . .	77	31.—Education . . .	6,89(<i>h</i>)
XXII.—Medical . . .	(<i>b</i>)	32.—Medical . . .	1,08(<i>h</i>)
XXIII.—Public Health .	7	33.—Public Health . . .	1,01
XXIV.—Agriculture . .	27	34.—Agriculture . . .	76
XXV.—Industries . . .	2	35.—Industries . . .	18
XXX.—Civil Works . . .	17	37.—Miscellaneous Department.	...
XXXIII.—Receipts in aid of Superannuation.	3	41.—Civil Works . . .	2,47(<i>d</i>)
XXXIV.—Stationery and Printing.	1	45.—Superannuation, etc.	1,40
XXXV.—Miscellaneous .	30+28(<i>c</i>)	47.—Miscellaneous . . .	52(<i>c</i>)
Total .	34,06	Total .	32,53

General remarks:—

In the above statement the expenditure on (*i*) the Divisional Commissioner and his establishment and (*ii*) the Inspector of Schools and his establishment has not been included. The total expenditure under these two heads during 1924-25 was approximately Rs. 79,000 and Rs. 21,000 respectively. A proportion of this expenditure is debitable to Sylhet, but exact proportion cannot be determined.

Expenditure in England debited finally in the Home accounts has not been shown here as the figures cannot be distributed.

The cost of printing of forms in Bengal and outside presses cannot be distributed. The total expenditure on this account for the whole province including cost of stationery supplied from Central Stores was Rs. 83,000.

It has not been found possible to exclude transactions relating to other districts which pass through the Sylhet Treasury in their entirety, as separate account is not kept of them in this office. For the same reason the transactions relating to Sylhet but accounted for in other districts could be accounted for only in a few cases. Receipts of the Sylhet Seed Depôt in other districts have not been taken into account.

(a) The figure under "II.—Taxes on income" represents Provincial Governments' share of income-tax. The Provincial share of income-tax for the whole province was Rs. 5,54,225-14-6. In the absence of any information as to what the assessed income for Sylhet in 1924-25 was, the share of Sylhet out of the total of Rs. 5,54,225-14-6 cannot be correctly worked out. But only a rough estimate has been made by the rule of proportion on the basis of the total collections for the whole province (which was Rs. 19,70,443-4-1) as against the amount collected in Sylhet (which was Rs. 1,85,199-13-8).

(b) Under one thousand.

(c) This figure includes Rs. 28,000 on account of proportionate share of contribution by the Central Government on account of collection of income-tax.

The total amount of contribution paid for the province in 1924-25 was Rs. 2,92,321. The share of Sylhet (Rs. 28,000) has been worked out at the rate of 10 per cent. on the ordinary collections (after deduction of refund) of that district.

(d) This figure does not include the expenditure on the construction of the Murarichand College, which amounted to Rs. 1,24,000 during the year. A portion of the Sylhet district is included in the Cachar Division so far as Public Works expenditure is concerned. As the expenditure for that portion is not booked separately from that relating to the Cachar district it cannot be furnished by this office. If required, it may be obtained from the Executive Engineer, Cachar Division. Total expenditure includes Rs. 1,29,000 for contributions, Rs. 72,000 for establishment and Rs. 92,000 for other works. Share of establishment debitable to the Murarichand College, Central, etc., is Rs. 46,000. This amount has therefore been deducted from the district expenditure.

(e) Besides this sum of Rs. 52,000, a sum of Rs. 2,49,020 was debited to this head on account of irrecoverable temporary loans written off during 1924-25 which did not affect Provincial balance.

(f) This does not include Sylhet's share of the Unified stamps and stamp fees realised in Bengal,

(g) Does not include share of cost of the High Court at Calcutta.

(h) Do not include share of educational institutions and Mental Hospitals in Bengal, etc.

APPENDIX B.

Explanatory Notes made by Finance Department regarding receipts and expenditure of Sylhet District for 1924-25.

Receipts—

(a) Under the head “ Taxes on Income ” Comptroller showed an approximate estimate of the Sylhet share of the income-tax credited to this province. His figure was Rs. 52. Following the principle adopted previously the Finance Department showed under this head an estimate of the provincial share of the income-tax paid in Sylhet (Rs. 14) and added below Rs. 65 as representing approximately the Sylhet share of the income-tax and stamp revenue paid in Bengal. The figures taken by Government are more favourable to Sylhet than those taken by the Comptroller.

(b) The Comptroller added Rs. 28 as an estimate of the Sylhet share of the commission paid by the Central Government for the cost of collecting income-tax in Assam. This figure was excluded, as no part of the cost of the Commissioner of Income-tax and his office had been debited to Sylhet and no special staff is employed in Sylhet for the income-tax work.

The result of these adjustments was that the figures on the receipts side published by Government are Rs. 1 less than those supplied by the Comptroller.

Expenditure—

(a) The Comptroller figures under General Administration were raised by Rs. 18, representing the travelling allowance of the Sylhet members of the Legislative Council. Such expenditure had been included in the figures of previous years.

(b) Rs. 123 were added under 41.—Civil Works on account of of the Public Works expenditure in South Sylhet, which is included within the Cachar Public Works Division. The figures were obtained from the Public Works Department and the adjustment was made on the same way as in the previous years' figures.

The Comptroller noted that his figures under this head were incomplete.

(c) Rs. 51 were added as in the previous years' figures representing the cost of Sylhet students and others in institutions outside the district *minus* the cost of students and others from other districts in Sylhet institutions.

APPENDIX II.

Press Communiqué.

It will be remembered that in January last the Assam Legislative Council adopted two resolutions, one of which recommended the transfer of the district of Sylhet to Bengal, and the other stipulated in general terms that this transfer should not, however, prejudice the future status of Assam as a Governor's province.

The first resolution was carried by 26 votes to 12, and the second unanimously.

The proposal had previously been discussed more than once in the Legislative Councils of Assam and Bengal, and on every occasion the transfer of Sylhet from Assam to Bengal was approved by a majority of the Council.

A similar resolution was moved and discussed in the Legislative Assembly in January 1925, but the discussion had to be adjourned, firstly, until the final views of the two provincial Governments and Legislative Councils were known, and, secondly, until the Government of India had consulted the Secretary of State in Council. No conclusions had been reached before the Indian Legislative Assembly adjourned in March last, and the discussion could not therefore be resumed in that body. The Government of India have now obtained the instructions of the Secretary of State and consider it desirable, in view of the many conflicting rumours and uncertainty that for nearly two years have prevailed in regard to the future of Sylhet, to announce at once the decision which has just been reached.

The Secretary of State has ruled that the transfer of the district to Bengal cannot be dissociated from that of the future form of administration of the province of Assam. The Government of India, agreeing with this ruling, propose accordingly to reserve these two questions, namely the transfer of Sylhet, and its consequent effect upon the future status of Assam, for consideration by the Statutory Commission to be appointed in 1929 under the provisions of section 84-A of the Government of India Act.

G. M. YOUNG,

*Offg. Joint Secretary to the
Government of India.*

HOME DEPARTMENT;
Simla, the 16th June 1926.



